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MARCH 2010

ADDITIONAL INFORMATION ON THE BUDGETARY MEASURES

Québec

Budget 2010-11

March 30, 2010

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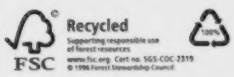
Finances Québec



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Additional Information on the Budgetary Measures

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1. MEASURES CONCERNING INDIVIDUALS

1.1 Introduction of a health contribution as of July 1, 2010

To help ensure the sustainability of the public health-care system, a health contribution will be introduced as of July 1, 2010.

Only adults will have to pay the contribution. However, adults whose family income is equal to or lower than the exemption threshold applicable to them will be exempt from the contribution.

The amount of the health contribution will be $25 per adult for 2010,[1] $100 per adult for 2011 and $200 per adult as of 2012.

In the case of a couple, each spouse will be required to pay the health contribution. Accordingly, a couple may be required to pay, in respect of the new health contribution, a total of $50 in 2010, $200 in 2011 and $400 as of 2012.

The health contribution will be payable under the *Act respecting the Régie de l'assurance maladie du Québec*[2] to the Minister of Revenue no later than the date on which individuals are required to pay income tax for a year. In general, the health contribution for 2010 will be payable no later than April 30, 2011, when the income tax return is filed.

❑ Liability for the health contribution

All individuals (other than trusts) who, at the end of a year, are resident in Québec and 18 years of age will be required to pay the health contribution for that year.

Where an individual dies or ceases to be resident in Canada during a given year, the last day of the year will be deemed to be the day on which the individual died or the last day he or she was resident in Canada, as the case may be. However, individuals who cease to be resident in Canada or who die before July 1, 2010 will be exempt from paying the health contribution for 2010.

In addition, an individual will be considered to be resident in Québec for a given year if he or she is deemed to be resident for the year for the purposes of the application of the *Taxation Act*,[3] unless the individual is deemed to be resident because he or she sojourned in Québec for a period of, or periods the total of which is, 183 days or more in the year, whereas he or she was ordinarily resident outside Canada.

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1 The amount of $25 represents 50% of the amount of $50 that would otherwise be payable if the health contribution were to be paid for all of 2010, rather than only as of July 1.

2 R.S.Q., c. R-5.

3 R.S.Q., c. I-3.

Furthermore, where an individual is exempt from income tax for a year under one of paragraphs *a* to *c* and *f* of the first paragraph of section 96 of the *Act respecting the Ministère du Revenu*,[4] the individual will not be liable for the payment of the health contribution for the year.[5]

❑ Exemption threshold

An adult will be exempt from paying the health contribution for a given year if his or her family income for the year is equal to or less than the exemption threshold applicable to the adult for the year.

For exemption purposes, an individual's family income for a year will be the individual's income for the year plus, where applicable, that of his or her eligible spouse[6] for the year.

For greater clarity, where an individual goes bankrupt during a given calendar year, the rule under which the bankrupt's taxation year is deemed to begin on the date of the bankruptcy and the current taxation year is deemed to end the day before that date will not apply for the purposes of determining the individual's family income for the year.

The exemption threshold applicable to an adult for a year will correspond, based on the composition of the adult's household, to the amount granted to the adult for the year for deduction purposes in the calculation of the premium for the public prescription drug insurance plan, or that would be granted to the adult for the year if he or she were required to pay such a premium.[7]

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4 R.S.Q., c. M-31.

5 These provisions apply to public servants or agents of the government of a country other than Canada, and the members of their families and personnel; the head officers of prescribed international organizations, and their employees and the members of their families; the representatives of member States on prescribed international organizations, and the members of their families and personnel; and the members of an office of a political division of a foreign State, and the members of their families.

6 The person who is the eligible spouse for the year for the purposes of the transfer of the unused portion of non-refundable tax credits from one spouse to the other. In general, for the purposes of the transfer, the eligible spouse of an individual for a given year is the person who is the individual's spouse at the end of the year and who, at that time is not living separate and apart from the individual or, where the individual does not have a spouse at the end of the year, the last person who was the individual's spouse during the year, where that person died during the year and, at the time of death, was the individual's spouse and was not living separate and apart from the individual.

7 The plan was introduced by the *Act respecting prescription drug insurance*, R.S.Q., c. A-29.01.

To illustrate, the table below shows the amount of each of the deductions granted for 2009, based on household composition, for the purposes of calculating the premium for the public prescription drug insurance plan.

TABLE A.1

Deductions varying with household composition
(dollars)

Household composition	Amount of the deduction
1 adult, no dependent children[1]	14 040
1 adult, 1 dependent child[1]	22 750
1 adult, 2 or more dependent children[1]	25 790
2 adults, no dependent children[1]	22 750
2 adults, 1 dependent child[1]	25 790
2 adults, 2 or more dependent children[1]	28 595

1 The expression "dependent child" of an individual for a year means a child in regard to whom the individual or the individual's eligible spouse for the year received an amount for the year in respect of the refundable tax credit for child assistance, or a child in regard to whom the individual or the individual's eligible spouse for the year deducted an amount in the calculation of his or her income tax payable for the year in respect of the transfer of the recognized parental contribution, or could have deducted such an amount had he or she been resident in Québec during the entire year or, if he or she died during the year, during the entire period of the year preceding the time of his or her death.

❑ Payment date of the health contribution

The health contribution will be payable no later than April 30 of the year following a given year for which it is payable, unless the individual dies after October 31 of the given year and before May 1 of the following year, in which case the health contribution will be payable no later than the day that falls six months after the individual's death.

As is presently the case in regard to the premium payable under the public prescription drug insurance plan, where an individual is required to make instalment payments on his or her income tax payable for a year after 2010, the individual will also be required to make instalment payments on his or her health contribution payable for the year.

Individuals who so desire may request, on the prescribed form and in the prescribed manner, that any person who, in a year, pays them an amount subject to source deductions of income tax (e.g. a salary or retirement benefit) increase the amount deducted in their regard in order to take into account the health contribution payable for the year.

1.2 Introduction of a solidarity tax credit

The tax system provides for various measures to help low- and middle-income households, including the refundable tax credit for the Québec sales tax (QST), the property tax refund and the refundable tax credit for individuals living in a northern village.

Tax credit for the QST

The refundable tax credit for the QST grants financial assistance to households that must allocate a significant proportion of their income to the consumption of essential goods and services. Its purpose is to relieve the consumption tax burden of these households.

In general, the tax credit is intended for individuals who, at the end of a year, are resident in Québec and 19 or older. All households entitled to the refundable tax credit for the QST for a year receive the assistance granted in that regard in two equal instalments in August and December of the following year.

Property tax refund

The property tax refund provides assistance with regard to the cost of housing. It is essentially intended for low- and middle-income households that are the owners, lessees or sublessees of a dwelling located in Québec that is their main place of residence, provided the dwelling is not, for example, located in low-rental housing or in a residential and long-term care centre (CHSLD).

The property tax refund is paid to households in conjunction with the processing of their income tax return, that is, three to six months after the end of the year for which the refund was claimed.

Tax credit for individuals living in a northern village

The refundable tax credit for individuals living in a northern village is intended to recognize that the cost of living is higher in such villages than elsewhere, due primarily to their remoteness and climate. It reduces the cost of living for low- and middle-income households.

Briefly, this tax credit is granted to any person who is at least 19 years of age, on the basis of the number of months he or she has been living in a northern village.

Like the refundable tax credit for the QST, the refundable tax credit for individuals living in a northern village is paid in two equal instalments in August and December of the year following the year in which it was claimed.

New solidarity tax credit

To better meet the needs of low- and middle-income households, these various tax measures will be grouped into a single refundable tax credit–the solidarity tax credit.

Essentially, the new tax credit will provide more assistance to households to reduce QST- and housing-related costs, while acknowledging that inhabitants of northern villages must bear a higher cost of living than their counterparts elsewhere.

So that less time elapses between the receipt of the tax assistance granted under tax credit and the needs it is intended to meet, the tax credit will be paid monthly. The first payment of the solidarity tax credit will be made in July 2011.

In addition to being available to young taxpayers as soon as they turn 18, the solidarity tax credit will be better tailored to the situation of households, because it will take into account the changes, such as births, unions and separations that occur over the course of a year.

It will also considerably simplify the tax assistance for low- and middle-income households, as they will no longer have to use various tax measures to reduce their costs. All they will have to do is claim the solidarity tax credit on the income tax return, without doing any calculations. The tax credit may be granted for a given month to any individual who claims it and who, for that month, meets the various eligibility conditions.

1.2.1 General eligibility conditions

Eligible individual
– Be at least 18 years of age (subject to certain exceptions)
– Be a resident of Québec
– Hold a recognized status (e.g. Canadian citizen, permanent resident, refugee)
– Not be confined to prison

❑ Eligible individual

An eligible individual for a given month means an individual who, at the start of the month, is 18 years of age or over, an emancipated minor, the spouse of another individual, or the father or mother of a child with whom the individual resides, and who meets the following conditions:

— the individual resides in Québec or, if he or she is the cohabiting spouse of a person who is deemed to reside in Québec throughout the taxation year that includes that time (other than a person who receives a remission of the tax payable for the year),[8] he or she resided in Québec during a previous taxation year;

— the individual, or his or her cohabiting spouse, has one of the following statuses:

  — Canadian citizen;

  — permanent resident within the meaning of the *Immigration and Refugee Protection Act*;[9]

  — temporary resident or holder of a temporary resident permit within the meaning of the *Immigration and Refugee Protection Act*, having resided in Canada during the 18-month period preceding that time;

  — protected person within the meaning of the *Immigration and Refugee Protection Act*;

— the individual is not an excluded individual.

An excluded individual for a given month is an individual who, at the start of the month, is:

— a person in regard to whom another individual received for the given month an amount in respect of the refundable tax credit for child assistance;

— a person confined to a prison or similar institution;[10] or

— a person who would be exempt from tax under section 982 or 983 of the *Taxation Act*,[11] or under one of paragraphs *a* to *d* and *f* of the first paragraph of section 96 of the *Act respecting the Ministère du Revenu*, if the given month were a taxation year, or the cohabiting spouse of such a person.

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8 A person who is exempt from tax for the year under one of paragraphs *a* to *d* and *f* of the first paragraph of section 96 of the *Act respecting the Ministère du Revenu*, R.S.Q., c. M-31.

9 S.C. 2001, c. 27, s. 2, par. 1.

10 To that end, a person who, at the start of a given month, is allowed to be temporarily absent from a prison or similar institution in which he or she is serving time is deemed to be confined to that prison or similar institution at that time.

11 R.S.Q., c. I-3.

For the purposes of the application of the solidarity tax credit, the expression "cohabiting spouse" refers to a person who, at a given time, is the spouse of an individual from whom he or she is not living apart at that time. In this respect, a person will be considered to be living apart from an individual at a given time only if he or she is living apart from the individual at that time because of the breakdown of their relationship and if the separation lasts for a period of at least 90 days that includes that time.

❑ Claiming the tax credit

To take advantage of the solidarity tax credit, eligible individuals must submit a claim to the Minister of Revenue at tax time. If an eligible individual ordinarily lives with another eligible individual who is his or her cohabiting spouse, only one of them may claim the tax credit.

The tax credit must be claimed on the income tax return in all cases where the individual was living in Québec on December 31 of the year preceding the year for which the tax credit is claimed. In all other cases, the tax credit must be claimed using the form prescribed by the Minister of Revenue.

So that an individual's claim for a given month may be validly considered by the Minister of Revenue, it must have been submitted no later than the eleventh month following the given month. However, the Minister of Revenue may at all times extend the deadline.

In addition, to be able to claim the tax credit for a given month included in the year of the claim, an eligible individual and, where applicable, his or her cohabiting spouse at the start of the month, must have filed one of the following documents:

— where the given month is in the first six months of the year:

  — if the person was resident in Québec on December 31 of the second calendar year preceding the year of the claim and in Canada throughout that year, the tax return he or she is required to file under section 1000 of the *Taxation Act* for that year;

  — if the person was not resident in Québec on December 31 of the second calendar year preceding the year of the claim, but was resident in Canada throughout that year, either the tax return he or she is required to file under Part I of the *Income Tax Act*[12] for that year, or a statement of income for that year;

  — in all other cases, a statement of income for the second calendar year preceding the year of the claim;

12 R.S.C. 1985, c. 1 (5th Supp.).

— where the given month is in the last six months of the year:

  — if the person was resident in Québec on December 31 of the calendar year preceding the year of the claim and in Canada throughout that year, the tax return he or she is required to file under section 1000 of the *Taxation Act* for that year;

  — if the person was not resident in Québec on December 31 of the calendar year preceding the year of the claim, but was resident in Canada throughout that year, either the tax return he or she is required to file under Part I of the *Income Tax Act* for that year, or a statement of income for that year;

  — in all other cases, a statement of income for the calendar year preceding the year of the claim.

Furthermore, in order to eliminate the high administrative costs of issuing and sending several cheques to the same individual during the course of a year, an individual who claims the new solidarity tax credit must agree to have the payments made by direct deposit into an account held by the individual in a financial institution located in Québec.

1.2.2 Determination of the tax credit

Determination of the tax credit
Addition of the amounts granted under each of the components of the tax credit
– QST component
– Housing component
– Individuals living in a northern village component
Reduction on the basis of family income

Given that the tax credit for the QST and the tax credit for individuals living in a northern village will be incorporated into the solidarity tax credit and the monthly payments of the new tax credit will begin in July 2011, the tax credit for 2011 will be determined according to parameters different from the ones that will be used as of 2012.

❑ For 2011

An eligible individual for a given month may receive for that month, if it is included in the period beginning on July 1, 2011 and ending on December 31, 2011, a payment in respect of the solidarity tax credit equal to the amount determined using the following formula:

$1/6 (A + B + C - D)$

For the purposes of the application of this formula:

— the letter A, on the basis of which the QST component is determined, represents the total of the following amounts:

  — a basic amount of $220 in regard to the individual;

  — an amount of $220 in regard to a person who was the individual's cohabiting spouse at the start of the given month if, at that time, the person was living in Québec, ordinarily lived with the individual and was not confined to a prison or similar institution;[13]

  — an amount of $125 if, at the start of the given month, the individual ordinarily lived in a self-contained domestic establishment in which no other eligible individual ordinarily lived at that time;

— the letter B, on the basis of which the housing component is determined, represents the total of the following amounts:

  — an amount of $75 if, at the start of the given month, the individual was living in an eligible dwelling of which he or she was the owner, lessee or sublessee and in which no other person who was the individual's cohabiting spouse or an eligible individual who was the owner, lessee or sublessee of the dwelling ordinarily lived;

  — an amount of $100 if, at the start of the given month, the individual was living in an eligible dwelling of which the individual or his or her cohabiting spouse with whom the individual ordinarily lived at that time was the owner, lessee or sublessee and in which no other eligible individual who was the owner, lessee or sublessee ordinarily lived;

  — if, at the start of the given month, the individual was living in an eligible dwelling of which he or she was the owner, lessee or sublessee with one or more other people who also ordinarily lived in the dwelling, an amount equal to that obtained after dividing $100 by the number of people ordinarily living in the dwelling who were owners, lessees or sublessees;

13 See note 10.

— where the individual was entitled, for the given month, to an amount for housing, an amount of $25 for each child with whom he or she ordinarily lived at the start of the given month and in regard to whom the individual or his or her cohabiting spouse with whom the individual ordinarily lived at that time received, for the given month, an amount in respect of the refundable tax credit for child assistance, or an amount equal to 50% of the amount attributed for the child, if the amount received regarding the child in respect of the refundable tax credit for child assistance was determined on the basis of the rules applicable to joint custody;

— the letter C, on the basis of which the individuals living in a northern village component is determined, represents the total of the following amounts if, at the start of the given month, the individual ordinarily lived in a territory established as a northern village municipality pursuant to the *Act respecting Northern villages and the Kativik Regional Government*:[14]

  — an amount of $775 in regard to the individual;

  — an amount of $775 in regard to a person who was the individual's cohabiting spouse at the start of the given month if, at that time, the person was not confined to a prison or similar institution[15] and ordinarily lived with the individual;

  — an amount of $332 for each child who ordinarily lived with the individual at the start of the given month and in regard to whom the individual or his or her cohabiting spouse with whom the individual ordinarily lived at that time received, for the given month, an amount in respect of the refundable tax credit for child assistance, or an amount equal to 50% of the amount attributed for the child, if the amount received regarding the child in respect of the refundable tax credit for child assistance was determined on the basis of the rules applicable to joint custody;

— the letter D represents the amount determined using the following formula:

  E (F – G)

  in which:

  — the letter E, which represents the applicable reduction rate, is equal to 6%, unless, for the given month, the individual was entitled to only one of the three components of the solidarity tax credit, in which case the reduction rate is equal to 3%;

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14 R.S.Q., c. V-6.1. The villages of Akulivik, Aupaluk, Inukjuak, Ivujivik, Kangiqsualujjuaq, Kangiqsujuaq, Kangirsuk, Kuujjuaq, Kuujjuarapik, Puvirnituq, Quaqtaq, Salluit, Tasiujaq and Umiujaq are northern villages.

15 See note 10.

— the letter F represents the individual's family income for the taxation year that ended on December 31, 2010;

— the letter G, which represents the reduction threshold for the taxation year that includes the given month, is equal to $30 490.[16]

❑ As of January 2012

An eligible individual for a given month subsequent to December 2011 may receive for that month a solidarity tax credit payment equal to the amount determined using the following formula:

$^1/_{12}$ (A + B + C – D)

For the purposes of the application of this formula:

— the letter A, on the basis of which the QST component is determined, represents the total of the following amounts:

— a basic amount of $265 in regard to the individual;

— an amount of $265 in regard to a person who was the individual's cohabiting spouse at the start of the given month if, at that time, the person was living in Québec, ordinarily lived with the individual and was not confined to a prison or similar institution;[17]

— an amount of $128 if, at the start of the given month, the individual ordinarily lived in a self-contained domestic establishment in which no other eligible individual ordinarily lived at that time;

— the letter B, on the basis of which the housing component is determined, represents the total of the following amounts:

— an amount of $515 if, at the start of the given month, the individual was living in an eligible dwelling of which he or she was the owner, lessee or sublessee and in which no other person who was the individual's cohabiting spouse or an eligible individual who was the owner, lessee or sublessee of the dwelling ordinarily lived;

— an amount of $625 if, at the start of the given month, the individual was living in an eligible dwelling of which the individual or his or her cohabiting spouse with whom the individual ordinarily lived at that time was the owner, lessee or sublessee and in which no other eligible individual who was the owner, lessee or sublessee ordinarily lived;

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16 More specifically, the threshold will be equal to the result obtained after applying, to $30 490, the indexing factor established for 2011 and rounding off to the closest $5.

17 See note 10.

— if, at the start of the given month, the individual was living in an eligible dwelling of which he or she was the owner, lessee or sublessee with one or more other people who also ordinarily lived in the dwelling, an amount equal to that obtained after dividing $625 by the number of people ordinarily living in the dwelling who were owners, lessees or sublessees;

— where the individual was entitled, for the given month, to an amount for housing, an amount of $110 for each child with whom he or she ordinarily lived at the start of the given month and in regard to whom the individual or his or her cohabiting spouse with whom the individual ordinarily lived at that time received, for the given month, an amount in respect of the refundable tax credit for child assistance, or an amount equal to 50% of the amount attributed for the child, if the amount received regarding the child in respect of the refundable tax credit for child assistance was determined on the basis of the rules applicable to joint custody;

— the letter C, on the basis of which the individuals living in a northern village component is determined, represents the total of the following amounts if, at the start of the given month, the individual ordinarily lived in a territory established as a northern village municipality pursuant to the *Act respecting Northern villages and the Kativik Regional Government*:[18]

— an amount of $790 in regard to the individual;

— an amount of $790 in regard to a person who was the individual's cohabiting spouse at the start of the given month if, at that time, the person was not confined to a prison or similar institution[19] and ordinarily lived with the individual;

— an amount of $339 for each child who ordinarily lived with the individual at the start of the given month and in regard to whom the individual or his or her cohabiting spouse with whom the individual ordinarily lived at that time received, for the given month, an amount in respect of the refundable tax credit for child assistance, or an amount equal to 50% of the amount attributed for the child, if the amount received regarding the child in respect of the refundable tax credit for child assistance was determined on the basis of the rules applicable to joint custody;

18 See note 14.

19 See note 10.

— the letter D represents the amount determined using the following formula:

E (F – G)

in which:

— the letter E, which represents the applicable reduction rate, is equal to 6%, unless, for the given month, the individual was entitled to only one of the three components of the solidarity tax credit, in which case the reduction rate is equal to 3%;

— the letter F represents the individual's family income for the taxation year that ended on December 31 of the second calendar year preceding the year that includes the given month, where the given month is in the first six months of a calendar year, and, if it is in the last six months of a calendar year, the individual's family income for the taxation year that ended on December 31 of the preceding calendar year;

— the letter G represents the reduction threshold for the taxation year that includes the given month.[20]

1.2.3 Application details

❑ Special rules

Rules will be introduced to ensure that an amount in respect of the housing component of the solidarity tax credit is granted to an eligible individual who is not the owner, lessee or sublessee of the eligible dwelling in which he or she lives, where the individual's spouse would be entitled to an amount for the dwelling if he or she were not in prison, or where one of the individual's minor children owns the dwelling.

■ Cohabiting spouse confined to prison

Where, at the start of a given month, an eligible individual is not the owner, lessee or sublessee of the eligible dwelling in which he or she lives and the person who is the owner, lessee or sublessee of the dwelling is confined to a prison or similar institution[21] (the confined person), the individual will be deemed to be the owner, lessee or sublessee of the dwelling at the start of the month, where the confined person ordinarily lived with the individual immediately prior to his or her confinement and is, at that time, the individual's cohabiting spouse.

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20 For 2012, the threshold will be equal to the result obtained after indexing the 2011 threshold and rounding off to the closest $5.

21 See note 10.

■ Minor child who is the owner

An eligible individual who, at the start of a given month, is not the owner, lessee or sublessee of the eligible dwelling in which he or she lives will be deemed to be the owner, lessee or sublessee of the dwelling if, at that time, he or she ordinarily lived with a child who was the owner and in regard to whom he or she received, for the given month, an amount in respect of the refundable tax credit for child assistance.

❑ Eligible dwelling

For the purposes of the application of the housing component of the solidarity tax credit, the eligible dwelling of an individual means a dwelling located in Québec in which the individual ordinarily lives and which is the individual's principal place of residence, excluding:

— low-rental housing within the meaning of article 1984 of the *Civil Code of Québec*;[22]

— a dwelling located in a facility maintained by a public or private institution under agreement contemplated by the *Act respecting health services and social services*[23] that operates a hospital centre, a residential and long-term care centre or a rehabilitation centre within the meaning of the Act;

— a dwelling located in a facility maintained by a hospital centre or a reception centre that is a public institution for the purposes of the application of the *Act respecting health services and social services for Cree Native persons*[24] or that made a contract or an agreement under section 176 or 177 of that Act;

— a dwelling located in a building or a residential facility where the services of an intermediate resource or a family-type resource within the meaning of the *Act respecting health services and social services*, or of a foster family contemplated by the *Act respecting health services and social services for Cree Native persons*, are offered;

— a dwelling for which an amount is paid in discharge of rent under the *National Housing Act*;[25]

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22 S.Q. 1991, c. 64. A dwelling situated in low-rental housing owned or administered by the Société d'habitation du Québec (SHQ) or by a legal person whose operating expenses are met, in whole or in part, by a subsidy from the SHQ, or a dwelling which is not so situated but whose rent is fixed by by-law of the SHQ is a dwelling in low-rental housing. A dwelling for which the SHQ agrees to pay an amount toward the rent is also a dwelling in low-rental housing.

23 R.S.Q., c. S-4.2.

24 R.S.Q., c. S-5.

25 R.S.C. 1985, c. N-11.

— a room situated in the principal residence of the lessor, if not more than two rooms are rented or offered for rent and if the room has neither a separate entrance from the outside nor sanitary facilities separate from those used by the lessor;

— a room situated in a hotel establishment or in a rooming house, that is leased or subleased for a period of less than 60 consecutive days.

❑ Family income

The solidarity tax credit to which an eligible individual may otherwise be entitled for a given month will be reduced on the basis of his or her family income.

In that regard, an eligible individual's family income to be taken into account in the calculation of the tax credit for a given month included in the first six months of a calendar year will correspond to the aggregate of the individual's income and, where applicable, that of the individual's cohabiting spouse at the start of the given month for the taxation year that ended on December 31 of the second calendar year preceding the year.

Where the given month is included in the last six months of a calendar year, the eligible individual's family income to be taken into account in the calculation of the tax credit will correspond to the aggregate of the individual's income and, where applicable, that of the individual's cohabiting spouse at the start of the given month for the taxation year that ended on December 31 of the calendar year preceding the year.

Any change in the individual's conjugal situation (separation, death, new relationship) will therefore be taken into consideration for the purposes of the calculation of the individual's family income as of the month following the month in which the change occurred.

■ Rules governing the calculation of family income

▪ Individuals who go bankrupt during a year

Where an individual goes bankrupt during a given calendar year, the rule under which the bankrupt's taxation year is deemed to begin on the date of the bankruptcy and the current taxation year is deemed to end the day before that date will not apply for the purpose of determining the individual's family income for the year.

- **Non-resident and resident for part of the year**

Where an individual does not reside in Canada throughout a given taxation year, the individual's income for that year will be deemed to be equal to the income that would have been determined in his or her regard had he or she resided in Québec and Canada throughout the year or, if the individual dies during the year, throughout the period of the year preceding his or her death.

■ Family income of last resort financial assistance recipients

To take better account of the needs of last resort financial assistance recipients, the family income to be taken into account for the purposes of the calculation of the solidarity tax credit for any person who, at the start of a given month, is a recipient of the Social Assistance Program or the Social Solidarity Program provided for in the *Individual and Family Assistance Act*[26] will be deemed to be equal to zero. Consequently, last resort financial assistance recipients will be able to take full benefit of the new tax credit.

❑ Annual adjustment of the parameters of the tax credit

To protect the purchasing power of taxpayers against the rising cost of goods and services, all of the parameters of the new solidarity tax credit, with the exception of the reduction rates, will be adjusted annually.

As of January 1, 2013, the amounts used to calculate the QST component (i.e. $128 and $265), the amounts granted in the calculation of the housing component (i.e. $110, $515 and $625), the amounts used to calculate the individuals living in a northern village component (i.e. $339 and $790), and the reduction threshold applicable for a year will be automatically indexed each year.

As in the case of the main parameters of the personal income tax system, the index that will be used to index the parameters of the new solidarity tax credit will correspond to the percentage change in the overall average Québec consumer price index without alcoholic beverages and tobacco products (QCPI-WAT) for the 12-month period ending on September 30 of the year preceding the one for which an amount is to be indexed, compared with the average QCPI-WAT for the 12-month period that ended on September 30 of the year prior to the year preceding the one for which an amount is to be indexed.

As a rule, where the result after applying the indexing factor to the maximum amount is not a multiple of 1, it must be adjusted to the nearest multiple of 1 or, if it is equidistant from two multiples of 1, to the nearest higher multiple of 1. However, the reduction threshold for a year will be rounded off to the nearest $5.

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26 R.S.Q., c. A-13.1.1.

❑ Payment of the tax credit

The solidarity tax credit will be paid monthly and each payment will be made within the first five days of the month for which it is payable.

Under exceptional circumstances, the Minister of Revenue may, if he is convinced that it is in a household's interest, pay an amount in respect of the solidarity tax credit to which an eligible individual is entitled, to the individual's cohabiting spouse, where the spouse is also an eligible individual.

He will also have the power to suspend payment of the solidarity tax credit to an individual while an investigation into the individual's eligibility for the tax assistance is ongoing.

Where the tax credit calculated for a given month is lower than $2, the amount will not be paid during that month. However, if the aggregate of the amounts lower than $2 not paid for the months of January to November of a year and the amount granted in respect of the tax credit for December exceeds $2, the aggregate of these amounts will be paid in early December.

1.2.4 Changes in an individual's situation that affect the determination of the tax credit

An individual who, during a given month, ceases to be an eligible individual will be required to so notify the Minister of Revenue before the end of the first month following the given month. For example, notification must be given by an individual who ceases to reside in Québec or who begins serving a prison sentence.

All eligible individuals will also be required to notify the Minister of Revenue of any change in their situation of a nature to modify their right to receive an amount in respect of the tax credit or the amount they receive. They must do so before the end of the month that follows the month during which the change occurred.

For example, an individual will be required to notify the Minister of Revenue if the individual and his or her spouse have been living separate and apart for a period of at least 90 days due to the breakdown of their relationship, or if the individual becomes a person's cohabiting spouse, begins or stops living in a northern village or moves into a dwelling that is not an eligible dwelling.

Where a change in an eligible individual's situation increases the amount to which the individual is entitled in respect of the solidarity tax credit, the amount will be adjusted as of the start of the given month following the month in which the change occurred, provided the Minister of Revenue is notified of the change no later than the eleventh month following the given month or, if the Minister of Revenue is notified after that time, as of the start of the eleventh month preceding the month during which he was notified of the change.

1.2.5 Transitional tax credit for last resort financial assistance recipients

Currently, recipients of last resort financial assistance[27] may as a rule receive an amount each month in lieu of advance payment of the refundable tax credit for the QST. The amount is paid in the form of a monthly adjustment that is added to the basic financial assistance benefit.[28]

Given that the refundable tax credit for the QST will be incorporated into the new solidarity tax credit, one of the objectives of which is to relieve the consumption tax burden of low- and middle-income households, and that, like last resort financial assistance, the new tax credit will be paid monthly, the monthly adjustment in lieu of the advance payment of the refundable tax credit for the QST will be converted, for all months in 2010 and the first six months of 2011, into a tax assistance payment for last resort financial assistance recipients.

Briefly, this transitional tax assistance, which will be in the form of a refundable tax credit, will be granted to the same categories of recipients as those who are currently entitled to the monthly adjustment in lieu of the advance payment of the refundable tax credit for the QST, on the basis of the number of months the person has been receiving last resort financial assistance.[29] The Minister of Employment and Social Solidarity will be responsible for administering the transitional tax credit.

More specifically, for a given month included in the period beginning on January 1, 2010 and ending on June 30, 2011, a household, other than an excluded household, that receives financial assistance for that month under the Social Assistance Program or the Social Solidarity Program provided for in the *Individual and Family Assistance Act* will receive a refundable tax credit equal to the aggregate of the following amounts:

— $14.92, in the case of a household with only one adult;

— $29.83, in the case of a household with two adults;

— $10.16, in the case of a household composed of a single adult, other than the spouse of an ineligible student,[30] where the adult does not live in the same dwelling unit as another independent adult or another family.

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27 Financial assistance granted under the Social Assistance Program or the Social Solidarity Program provided for in the *Individual and Family Assistance Act*.

28 The basic benefit for recipients of the Social Assistance Program; the social solidarity allowance for recipients of the Social Solidarity Program.

29 See note 27.

30 An adult contemplated in subparagraph (1) of the first paragraph of section 27 of the *Individual and Family Assistance Act* is considered an ineligible student.

In that regard, an independent adult who is sheltered, a minor adult who is sheltered with her dependent child, and an independent adult required to reside in an institution, within the meaning of these expressions in the *Individual and Family Assistance Regulation*, will be considered excluded households.[31]

The amount granted for a given month will be incorporated into the calculation of the social assistance benefit or social solidarity allowance, as the case may be, and may therefore be reduced.

Moreover, any amount received by a household in respect of the transitional tax credit, but to which it was not entitled, must be repaid to the Minister of Employment and Social Solidarity, in the same way that any amount to be repaid to the Minister under the *Individual and Family Assistance Act* must be.

1.2.6 Consequential amendments

Consequential amendments must be made to the existing tax legislation to take into account the fact that the new solidarity tax credit attributable to a year will be paid monthly during that year and that the new tax credit will combine several existing tax measures.

❑ Modification of the tax credit for the transfer of the recognized parental contribution

Since 2007, the tax system has allowed certain students 18 or older who have little or no tax payable to transfer an amount to their parents in respect of the recognized parental contribution, up to the maximum established for the year. Parents can use the amount thus transferred to reduce their income tax otherwise payable by the same amount.

Briefly the amount that an eligible student may transfer to his or her father or mother for a given taxation year must not exceed the amount corresponding to the amount by which the income tax otherwise payable by the student for the given year is exceeded by 20% of one of the following amounts, as applicable:

— where the eligible student has completed at least two recognized terms of study in the year, the amount for recognized essential needs for the year (i.e. $6 925 for 2010);

— where the eligible student has completed only one recognized term of study in the year, the amount remaining after an amount for a term of study ($1 940 for 2010) is subtracted from the amount for recognized essential needs ($6 925 for 2010).[32]

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31 R.R.Q., c. A-13.1.1, r. 1, ss. 4, 17, 26 and 26.1.

32 The amount for recognized essential needs and the amount granted for a term of study are automatically indexed each year.

However, since the recognized essential needs of persons under 18 are covered by the refundable tax credit for child assistance, the maximum amount a student may transfer for the year of his or her 18th birthday is calculated differently.

In such a case, the maximum amount the student may transfer for the year he or she turns 18 is equal to the amount by which his or her income tax otherwise payable for the year is exceeded by 20% of aggregate of the following amounts:

— the amount granted for a term of study ($1 940 for 2010), for each recognized term of study (maximum of two terms) completed in the year;

— the amount corresponding to the proportion by which the amount for recognized essential needs for the year ($6 925 for 2010) exceeds the amount equivalent to twice the amount granted for a term of study ($3 880 for 2010), as represented by the ratio between the number of months in the year that follow the month in which the student turned 18, and 12.

Under existing rules, a student who, for a given taxation year, transfers to his or her parents all or part of the amount granted to him or her in respect of recognized essential needs is not authorized to claim for the year the refundable tax credit for the QST or the refundable tax credit for individuals living in a northern village.

Given that these two tax credits will be incorporated into the solidarity tax credit, which will be paid monthly, any amount paid to a student in respect of the new tax credit must, as of the 2011 taxation year, be taken into account to determine the amount the student may transfer to his or her parents in respect of the recognized parental contribution.

More specifically, the amount for recognized essential needs that must be used to determine the amount a student may transfer to his or her parents for a given taxation year will be reduced by an amount equal to five times the aggregate of the amounts granted to the student for the year in respect of the new solidarity tax credit.

❑ Replacement of existing tax measures

The refundable tax credit for the QST and the refundable tax credit for individuals living in a northern village will cease to apply as of the 2010 taxation year, because payment of the new solidarity tax credit into which they will be incorporated will begin in July 2011.

Moreover, to take into account the fact that the amount to mitigate the cost of housing will be granted through the new solidarity credit, the *Act respecting Property tax refund*[33] will be amended to limit its application to a year prior to 2011.

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33 R.S.Q., c. R-20.1.

1.3 Reduction in the frequency requirement for certain home support services offered by residences for the elderly

To facilitate the home support of elderly persons age 70 or over, a refundable tax credit aimed at compensating elderly persons for part of the expenses they pay for certain home support services has been available under the tax system since 2000.

Following the March 13, 2008 Budget Speech, many of the parameters of the tax credit were changed to simplify its application and make it even more advantageous, especially for seniors who need it most.[34]

These changes resulted in an increase in the tax credit rate, from 25% to 30%; in a rise in the annual cap on eligible expenses applicable to elderly persons, from $15 000 to $15 600, and to $21 600 in the case of dependent persons; in the establishment of a reduction threshold;[35] and, for people living in a residence for the elderly or an apartment building, in the introduction of a method for determining the eligible expenses included in rent.

More specifically, since 2008, persons who pay rent to live in a residence for the elderly must determine the amount of eligible expenses included in their rent using one of two tables for determining such expenses. They must use the table for determining expenses on an individual basis, unless they share a dwelling solely with their spouse, in which case they must use the table for determining expenses on a household basis.

To make them easier to use, the tables for determining expenses were prepared using the terminology found in the schedule to the lease form, which must accompany the lease for a dwelling unit in a residence for the elderly.[36]

Briefly, the tables for determining expenses assign a value to the various recognized home support services that are offered by residences for the elderly and that lessees (or sublessees) agree to pay in the total rent.[37]

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34 MINISTÈRE DES FINANCES DU QUÉBEC, *2008-2009 Budget - Additional Information on the Budgetary Measures*, March 13, 2008, p. A.5-A.26.

35 The value of the tax credit, determined on the basis of the expenses paid, is reduced by 3% for every dollar of family income that exceeds a $50 000-threshold, which is automatically indexed every year. For 2010, the reduction threshold is $51 425.

36 The form *Schedule to the Lease - Services Offered to the Lessee Owing to His Personal Condition, Including Services Offered to the Elderly or Handicapped Persons*.

37 The total rent means the rent for the dwelling unit indicated on the copy of the lease or, in the case of a verbal lease, on the written document given to the lessee, to which is added, if applicable, the additional rent for specific services (amounts shown in the second column of the schedule to the lease), taking into account, if the lease was renewed, the changes made to the rent for the dwelling unit and the additional rent, if any. The total rent is shown on the last page of the schedule to the lease.

However, the aggregate of the values attributed for a given month to the various services provided to a senior by the residence in which the senior lives may not exceed 75% of the total rent paid to the residence for that month, if the senior or his or her spouse is a dependent person, or 65% in other cases.

In addition to a basic component, each of the tables has five items covering the various types of home support services (namely, laundry, housekeeping, daily meals, nursing and personal care) generally offered by residences for the elderly.

For a person to be entitled to take one of these five items into account for a given month, the schedule to the lease form must indicate that the frequency of the service covered by that item is at least equal to the prescribed frequency for that type of service. For example, the prescribed frequency for the daily food service is the supply of at least one of the three meals, be it breakfast, lunch or supper.

❑ Adjustment of the prescribed frequency for certain services

Further to the introduction of the new method for determining eligible expenses included in rent, ongoing monitoring is carried out to ensure that the tax credit is an effective tool for enabling people who live in a residence for the elderly to remain at home. The attendant review of the various components of the tax credit has shown that the prescribed frequencies for housekeeping and nursing services could be better adapted to the needs of seniors and the care they require.

■ Housekeeping services

Currently, when an elderly person receives a housekeeping service for a given month, a value equal to the higher of $50 or 5% of the person's total monthly rent,[38] up to $100, is assigned to the service, where the schedule to the lease form for the person's dwelling indicates that the service must be provided at least once a week.

To further support low-income seniors, the prescribed frequency for housekeeping services will be reduced from a frequency of at least once a week to at least once every two weeks.

38 The percentage is 3.5% when the table for determining expenses on a household basis is used.

■ Nursing services

Currently, when an elderly person receives a nursing service for a given month, a value equal to the higher of $100 or 10% of the person's total monthly rent,[39] up to $200, is assigned to the service, where the schedule to the lease form for the person's dwelling indicates that the presence of a person who is a member of the Ordre des infirmières et infirmiers du Québec or the Ordre des infirmières et infirmiers auxiliaires du Québec (member of the nursing staff) is assured for a period of at least seven hours a day.

To take into account the fact that a person who is a member of the nursing staff of a residence for the elderly with a limited number of dwelling units can, in a half-day, be present for each of the lessees for a period of time comparable to that which can be devoted in a day to the lessees of a large residence, the prescribed frequency for nursing services will be reduced from a period of at least seven hours' presence a day to a period of at least three hours' presence a day.

❑ Application date

The reduction in the prescribed frequency of housekeeping services and nursing services will apply as of the 2010 taxation year.

For greater clarity, so that an elderly person can take advantage of the reduced frequency for either of these services, a frequency at least equal to that prescribed for the service must be indicated on the schedule to the lease form or the notice of modification of the lease for the person's dwelling unit.

As of July 2010, the Minister of Revenue will gradually adjust the advance payments of the tax credit to be made to elderly persons who, in the first months of 2010, received housekeeping or nursing services covered by this measure.

1.4 Increase in the frequency of advance payments of the tax credit for child-care expenses and the work premium

As a rule, families who pay child-care expenses may claim a refundable tax credit compensating them for part of the expenses, excluding those paid for a child who is in a reduced-contribution space.[40]

The main purpose of the credit is to recognize costs borne by parents who require child-care services so that they can go to work, pursue studies or seek employment.

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39 The percentage is 7% when the table for determining expenses on a household basis is used.

40 When a child is in a reduced-contribution space, the family pays only $7 a day to provide the child with educational child care.

Moreover, to support and value work effort, and encourage people to give up last resort financial assistance to enter the labour market, the tax system grants a refundable tax credit to low- and middle-income households.

The tax credit is composed of a work premium, which varies depending on whether a member of the household has a severely limited capacity for employment, and a supplement for long-term recipients giving up last resort financial assistance or the Youth Alternative Program.

To better support low-income families and workers, the Minister of Revenue may, subject to the fulfilment of certain conditions, pay in advance part of the tax credit for child-care expenses and the work premium (general or adjusted) to which a household believes it is entitled for a year, where the household makes such a request to the Minister no later than September 1 of that year.

Under the existing rules, the Minister of Revenue makes advance payments of these tax credits four times a year, on the 15th of January, April, July and October.

Advance payments of the supplement for long-term recipients giving up last resort financial assistance or the Youth Alternative Program are made monthly, where the conditions for advance payment are met. Making advance payments on a monthly basis means that less time elapses between the receipt of the tax assistance and the payment of the expenses incurred to transition to the labour market.

Consequently, so that the assistance provided by the tax credit for child-care expenses and the work premium (general or adjusted) is received closer to the needs it is intended to meet, advance payments of these tax credits will all be made, as of 2011, on a monthly rather than a quarterly basis.

2. MEASURES CONCERNING BUSINESSES

2.1 Revision of the mining duties regime

Objective of the regime

The primary objective of a mining duties regime is to enable the government to collect fair compensation for the use of a non-renewable resource that belongs to the public domain.

Similar to what generally exists elsewhere, the tax base of Québec's mining duties regime is based on the notion of mining profit. Accordingly, the mining duties collected by the government capture part of the economic rent derived from the theoretical value of the ore at the mine shaft head.

In principle, the rent the owner of the resource must collect is the one attributable to the consumption of such resource. Since the tax base is the operator's profit, a component of such profit may be attributable to value added beyond the mine shaft head by the processing of such resource. For this reason, the mining duties regime stipulates a processing allowance, reflected in the recognition, in a way, of a perpetual financial return to the investor regarding the cost of property used to process the ore.

Under the existing system, an operator must pay mining duties on the basis of its annual profit, using a 12% tax rate. Briefly, an operator determines his annual profit by subtracting from the gross value of his annual output (whether from one or more mines), all the deductions and allowances stipulated by the mining duties regime (whether they relate to one or more mines). These allowances include the depreciation allowance, additional depreciation allowance, additional allowance for a northern mine, the allowance for exploration, mineral deposit evaluation and mine development and the additional exploration allowance.

Where the operator suffers a loss during a fiscal year, he may, subject to certain specific rules, claim a credit on duties refundable for losses, provided the loss is attributable to exploration, mineral deposit evaluation and mine development expenses. The rate of this credit on duties refundable is 12%, i.e. the same as the tax rate applicable to annual profit.

Observation

The experience of the mining duties regime in Québec is not satisfactory in all regards, in particular concerning the overall financial yield of the regime since 1994, even when resources are highly valued.

The regime also suffers from certain shortcomings, in particular concerning the calculation of the gross value of annual output and the recognition of certain expenditures and allowances. Lastly, it is complex and places a heavy administrative burden on operators and the government.

Revision of the regime

To achieve the primary objective of the regime, i.e. to enable the government to collect fair compensation for the use of a non-renewable resource that belongs to the public domain, many amendments will be made to the *Mining Duties Act*[41] (MDA).

First, the tax rate will be raised gradually from 12% to 16%.

Second, changes will be made to three allowances an operator may claim:

— The rate of the depreciation allowance will be reduced to better reflect the useful life of assets.

— The parameters used to calculate the processing allowance will be reviewed.

— The additional allowance for a northern mine will be replaced with an additional allowance for a mine located in Northern Québec, in particular to offer an allowance with a more extensive territorial reach.

Third, major changes will be made to the treatment applicable to all the exploration, mineral deposit evaluation and mine development expenses an operator may incur, in particular by creating three different cumulative accounts covering such expenses. These three cumulative accounts will give rise to three separate allowances.

Fourth, the credit on duties refundable for losses, which has substantial effects on the net compensation the government collects under the mining duties regime, will be limited.

Fifth, always with the objective of limiting situations where the government does not obtain fair compensation for the use of a non-renewal resource belonging to the public domain, the calculation method of an operator's annual profit will be changed by making use of a "mine-by-mine" approach.

Sixth, in the context where the gross value of annual output from precious stones, diamonds in particular, may grow substantially over the coming years, special rules will be put in place to facilitate the determination of the gross value of annual output attributable to this resource.

Lastly, a clarification will be made to the treatment applicable to certain amounts paid by an operator to a community or a municipality.

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41 R.S.Q., c. D-15.

2.1.1 Increase in the tax rate

The existing 12% tax rate is insufficient to allow fair compensation for the use of a non-renewable resource that belongs to the public domain. Accordingly, it will be raised gradually to 16% by January 1, 2012.

The following table shows the tax rates of the mining duties regime applicable before and after these increases.

TABLE A.2

Tax rates of the mining duties regime
(per cent)

	2010 up to the budget	2010 after the budget	2011	2012
Tax rates of the mining duties regime	12	14	15	16

The new tax rates will come into force the day following the day of the Budget Speech, January 1, 2011 and January 1, 2012 respectively.

Where an operator's fiscal year straddles the rate change dates, the tax rate that effectively applies for such taxation year will be a weighted rate reflecting the number of days of tne taxation year included in each of the periods concerned.

For greater clarity, an operator's instalment payments, for a fiscal year that straddles the rate change dates, must be calculated using the weighted rate applicable to such fiscal year.

In the specific case of instalment payments of an operator whose fiscal year straddles the day of the Budget Speech, these payments must be adjusted as of the first instalment following that day to reflect the effects of these changes.

2.1.2 Changes to three of the allowances an operator may claim

The mining duties regime includes a variety of allowances an operator may claim in calculating his annual profit. These allowances seek to recognize certain situations, foster certain behaviour or achieve specific objectives.

Changes will be made to three of these allowances.

❑ Reduction in the rate of the depreciation allowance

Under the rules that currently apply, the depreciation allowance an operator can claim in calculating its annual profit for a fiscal year, regarding property of a class, generally corresponds to the lesser of the following amounts:

— a percentage of the capital cost of the property of such class, for such fiscal year;

— the undepreciated capital cost of property of such class, at the end of the fiscal year.

Depreciable property is divided into three classes:

— property of the first class, i.e. a road, a building or equipment purchased before April 1, 1975 and actually used in mining operation. The rate of the depreciation allowance for property in this class is 15%;

— property of the second class, i.e. a road, a building or equipment purchased after March 31, 1975 and before May 13, 1994 and actually used in mining operation. The rate of the depreciation allowance for property in this class is 30%;

— property of the third class, i.e. a road, a building, equipment or a service property acquired after May 12, 1994 and regularly used in mining operation. The rate of the depreciation allowance for property in this class is 100%.

So that the depreciation allowance better reflects the length of the useful life of property, the rate of the depreciation allowance will be reduced from 100% to 30% for property acquired after the day of the Budget Speech.[42] To that end, property of the third class will correspond to property acquired after May 12, 1994 and no later than the day of the Budget Speech[43] and a fourth class of property will be created. The rate of the depreciation allowance for property of the fourth class, i.e. a road, a building, equipment or a service property acquired after the day of the Budget Speech[44] and regularly used in mining operations will be 30%.

Moreover, to limit over time the excessive flexibility offered by 100% depreciation of property of the third class, an operator may not claim a depreciation allowance regarding property of the fourth class until the balance of the undepreciated capital cost of property of the third class equals zero.

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42 Subject to the transition rule according to which property acquired after the day of the Budget Speech, but no later than one year after that day, will be included in class three, if it is acquired in accordance with a written obligation contracted no later than that day or, if the construction of such property by the operator, or on his behalf, had started no later than that day.

43 See prec. note.

44 See prec. note.

❑ Change to the parameters of the processing allowance

Since the mining duties tax base is the operator's profit, a component of such profit may be attributable to value added beyond the mine shaft head by the processing of the mineral substance. For this reason, the mining duties regime stipulates a processing allowance.

This processing allowance, for a fiscal year, is determined, initially, depending on the rates of return calculated on the capital cost, for the operator, of each property that is an asset used in processing during the fiscal year and is in his possession at the end of such fiscal year. Briefly, these rates of return are 8% where the operator does no smelting or refining or only smelts or refines ore from a gold or silver mine, and 15% where the operator smelts or refines ore that is not from a gold mine or silver mine. However, regarding assets used for ore concentration, the 15% rate is reduced by seven percentage points (7%), in the proportion where such assets are used to concentrate ore that is not smelted or refined by such operator.

In addition, these rates of return of 8% and 15% are respectively increased to 23% and 30% regarding the capital cost of each property in the possession of an operator at the end of its fiscal year and that is a processing asset, that it acquired new after March 31, 1998 and that it uses in Québec, during such fiscal year, exclusively to process mine tailings.

Lastly, such processing allowance, for a fiscal year, cannot exceed 65% of the operator's annual profit, for such fiscal year, calculated before deducting certain allowances.[45]

Moreover, these rules are also used in the calculation of an operator's adjusted annual loss, for a fiscal year, to determine the credit on duties refundable for losses.[46]

While it is difficult to accurately establish the "processing" component of mining profit, the rates of return allowed on processing assets, as well as the limit based on annual profit, are currently too high and do not enable the government to obtain fair compensation for the use of a non-renewable resource that belongs to the public domain.

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45 I.e. the processing allowance, the supplementary depreciation allowance and the additional allowance for a northern mine.

46 For more details, see subsection 2.1.4.

Accordingly, the parameters used to calculate the processing allowance will be changed. More specifically, the rates of return of 8% and 15% allowed on processing assets will be reduced to 7% and 13% respectively. The 7% rate of the proportional reduction applicable to the 15% rate in the case where an operator's assets are used for concentration of ore that is not smelted or refined by such operator, will be replaced by a 6% rate, i.e. the difference between the new rates of 13% and 7%. The higher 23% and 30% rates of return regarding processing assets of mine tailings will be eliminated. The limit of 65% based on annual profit will be reduced to 55%. These changes will also apply to the calculation of an operator's adjusted annual loss, for a fiscal year, to determine the credit on duties refundable for losses.

These new rates and the elimination of the 23% and 30% rates will apply regarding an operator's fiscal year ending after the day of the Budget Speech. Should an operator's fiscal year include that day, the rates actually applicable for such fiscal year will be weighted rates reflecting, on the one hand, the number of days of the fiscal year preceding the day after the day of the Budget Speech and, on the other, the number of days of the fiscal year following the day of the Budget Speech.

❑ Replacement of the additional allowance for a northern mine with an additional allowance for a mine located in Northern Québec

Under existing rules, an operator can claim, in calculating its annual profit for the first ten fiscal year of operation of a northern mine, i.e. a mine located north of 55° North latitude, an additional allowance for a northern mine. In particular, the amount of such allowance is based, in particular, on the capital cost, for the operator of the northern mine, of each asset located in Québec and used in processing ore from such mine.

The additional allowance for a northern mine will be replaced with an additional allowance for a mine located in Northern Québec. This allowance will cover, in addition to the Far North, the Mid-North, i.e. a larger territory than the existing allowance covers.

For the purposes of this additional allowance for a mine located in Northern Québec:

— the Mid-North means:

  — the territory included between 50°30' North latitude and 55° North latitude and limited to the East by the Grenville Front;

  — the part of the territory of the Côte-Nord located between 59° West longitude and 66° West longitude;

— the Far North means the territory located north of 55° North latitude.

In addition, this allowance will no longer be based on the capital cost, for the operator of the mine, of each asset located in Québec and used in processing ore from the mine.

The amount of the additional allowance for a mine located in Northern Québec that an operator may claim regarding a new mine will correspond to $2 million, over a period of 36 months, for each new mine located in the Mid-North and $5 million, over a period of 36 months, for each new mine located in the Far North, up to the annual profit from such new mine, calculated before such allowance.

More specifically, an operator may claim this allowance only regarding the annual profit from such new mine and attributable to the period beginning on the date when the such mine reaches the stage of production in reasonable commercial quantities and ending 36 months after such date.[47] To the extent that the amount of $2 million or $5 million, as the case may be, regarding a mine, is limited, for a fiscal year, by the annual profit from the mine, the excess may be carried over to a later fiscal year included in such 36-month period.

Should a fiscal year of an operator include the date when the new mine enters production in reasonable commercial quantities or the date 36 months after such date, the additional allowance for a mine located in Northern Québec the operator may claim, for such fiscal year, will correspond to the lesser of the following amounts:

- the annual profit for the fiscal year from such mine, before deducting the additional allowance for a mine located in Northern Québec, multiplied by the fraction obtained by dividing the number of days in such fiscal year included in the 36-month period by the total number of days in such fiscal year;
- the additional allowance for a mine located in Northern Québec the operator could otherwise claim regarding such mine for the fiscal year.

The additional allowance for a northern mine will continue to apply to a mine for which ore processing has started no later than the day of the Budget Speech. The additional allowance for a mine located in Northern Québec will apply to a new mine that enters production in reasonable commercial quantities[48] after the day of the Budget Speech, unless such mine allows the operator to claim the additional allowance for a northern mine.

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47 For more details on the concept of "mine reaching the stage of production in reasonable commercial quantities", see the heading "Creation of separate cumulative accounts for exploration expenses, mine development and mineral deposit evaluation expenses before production and mine development and mineral deposit evaluation expenses after production", page A.36.

48 For more details on the concept of "new mine entering production in reasonable commercial quantities", see the heading "Creation of separate cumulative accounts for exploration expenses, mine development and mineral deposit evaluation expenses before production and mine development and mineral deposit evaluation expenses after production", page A.36.

2.1.3 Changes concerning exploration, mineral deposit evaluation and mine development expenses

Exploration, mineral deposit evaluation and mine development expenses are important items in the calculation of an operator's annual profit. A significant part of these expenses can give rise to the exploration, mineral deposit evaluation and mine development allowance, which an operator can deduct in calculating its annual profit for a fiscal year. This allowance must not exceed the cumulative exploration, mineral deposit evaluation and mine development expenses at the end of such fiscal year.

Other expenses that can also be qualified as mineral deposit evaluation and mine development expenses, but are not covered by the exploration, mineral deposit evaluation and mine development allowance, can also be incurred by an operator.[49] The operator can generally deduct such expenses in calculating his annual profit for the fiscal year during which they are incurred.

Moreover, some exploration expenses covered by the exploration, mineral deposit evaluation and mine development allowance can enable an operator to claim an additional exploration allowance representing 50% of the expenses covered by this additional allowance.

The exploration, mineral deposit evaluation and mine development expenses that an operator funds by means of Québec's flow-through regime are generally deemed not to be expenses incurred by such operator. However, this presumption does not apply to such expenses funded by means of the federal flow-through regime.

❑ Creation of separate cumulative accounts for exploration expenses, mine development and mineral deposit evaluation expenses before production and mine development and mineral deposit evaluation expenses after production

The treatment applied to all exploration, mineral deposit evaluation and mine development expenses, i.e. the expenses covered by the existing exploration, mineral deposit evaluation and mine development allowance and the other mineral deposit evaluation and mine development expenses incurred by an operator, will be extensively revised.

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49 For example, expenses relating to mineral deposit evaluation work incurred after a decision to bring an orebody into production.

First, all exploration, mineral deposit evaluation and mine development expenses will be divided into three separate cumulative accounts each giving rise to a separate allowance. The definitions of the expenses covered by each of these separate cumulative accounts will draw broadly from the definitions of Canadian exploration expenses and Canadian development expenses of the *Taxation Act*,[50] for the purpose of simplifying the application of the tax provisions, both for operators and for the government.

Second, the concepts of "mine which has come into production in reasonable commercial quantities" and "new mine that enters production in reasonable commercial quantities" used in the definitions of the *Taxation Act* will also be used for the new definitions of the expenses covered by each of these cumulative accounts. These concepts will replace the notion of "decision to bring an orebody into production" currently used in the MDA. In addition, these concepts will be applicable throughout the MDA.

More specifically, all exploration, mineral deposit evaluation and mine development expenses will be divided into three separate cumulative accounts each giving rise to a separate allowance, namely:

— "cumulative exploration expenses" giving rise to the exploration allowance. Briefly, the exploration expenses that will be added to this cumulative account will include expenses incurred to determine the existence of a mineral substance in Québec, to locate such substance or determine its extent or quality, including those incurred during prospecting, geological, geophysical and geochemical studies, drilling and digging of exploration trenches or holes or preliminary sampling, other than any mineral deposit evaluation and mine development expenses before production, any mineral deposit evaluation and mine development expenses after production and any expense that can reasonably be related to a mine that has come into production in reasonable commercial quantities or to a real or possible extension of such mine;

— "cumulative mineral deposit evaluation and mine development expenses before production" that give rise to the allowance for mineral deposit evaluation and mine development before production. Briefly, the mineral deposit evaluation and mine development expenses before production that will be added to this cumulative account will include expenses incurred to bring a new mine in relation to a mineral substance in Québec to the stage of production in reasonable commercial quantities, including expenses for excavation, clearing and removal of surface layers, boring a mine shaft and construction of an adit or other underground entry, provided such expenses were incurred before the new mine enters into production in reasonable commercial quantities;

50 R.S.Q., c. I-3. More specifically, the definitions in sections 395 and 408 of the Act.

— "cumulative mineral deposit evaluation and mine development expenses after production" that give rise to the allowance for mineral deposit evaluation and mine development after production. Briefly, the mineral deposit evaluation and mine development expenses after production that will be added to this cumulative account will include the expenses incurred, other than an amount included in the capital cost of a depreciable property:

  — either to bore or excavate a mine shaft, a main haulageway or similar underground structure designed for continuous use, for a mine in relation to a mineral substance in Québec, built or excavated after the mine goes into production in reasonable commercial quantities;

  — or for the extension of such a shaft, haulageway or structure.

These three cumulative accounts will be determined according to the same principles as those currently applicable to cumulative exploration, mineral deposit evaluation and mine development expenses.[51]

These changes will apply to all exploration, mineral deposit evaluation and mine development expenses incurred by an operator after the day of the Budget Speech. For greater clarity:

— the exploration, mineral deposit evaluation and mine development expenses incurred no later than the day of the Budget Speech will be added to cumulative exploration, mineral deposit evaluation and mine development expenses and an operator may continue to deduct the exploration, mineral deposit evaluation and mine development allowance according to the rules that apply currently;

— the other expenses that can also be qualified as mineral deposit evaluation and mine development expenses but are not covered by the exploration, mineral deposit evaluation and mine development allowance, incurred no later than the day of the Budget Speech, will continue to be deductible according to the rules that apply currently;

— all the exploration, mineral deposit evaluation and mine development expenses incurred after the day of the Budget Speech will be allocated among the three separate cumulative accounts and may be deducted by the operator by means of the three allowances to which these cumulative accounts give rise.

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51 For example, regarding the treatment applicable to government assistance received or reimbursed and relating to eligible expenses, or regarding the general exclusions relating to the capital cost of property covered by the depreciation allowance, to general and administrative expenditures relating to exploration, mineral deposit evaluation and mine development work and the acquisition costs of a mining property, or an interest in such property.

■ Exploration allowance

Generally speaking, the exploration expenses that will be added to the cumulative account giving rise to the exploration allowance can currently be deducted in full during the fiscal year when they are incurred or during a subsequent fiscal year by means of the exploration, mineral deposit evaluation and mine development allowance.

Moreover, the cumulative exploration, mineral deposit evaluation and mine development allowance (i.e. the cumulative exploration, mineral deposit assessment and mine development expenses) includes a 25% increase applicable to certain exploration expenses incurred in the Mid-North and the Far North.

This 25% increase will be maintained and will apply to exploration expenses incurred in northern Québec. The cumulative account giving rise to the exploration allowance (i.e. the cumulative exploration expenses) will therefore include a 25% increase regarding exploration expenses incurred in northern Québec.

To that end, northern Québec means:

— the territory included between 50°30' North latitude and 55°North latitude and limited to the East by the Grenville Front;

— the part of the territory of the Côte-Nord located between 59°West longitude and 66°West longitude;

— the territory located north of 55°North latitude.

The maximum amount an operator may deduct in relation to this allowance will depend on his status, i.e. whether or not he is an eligible operator.

For the purposes of this allowance and the changes relating to the calculation of an operator's annual profit or annual loss,[52] an eligible operator, for a fiscal year, means an operator who satisfies the following conditions:

— he develops no mineral substance in reasonable commercial quantities at the end of the fiscal year;

— during the fiscal year, he is not associated, for the purposes of the *Taxation Act*, with another entity that develops a mineral substance in reasonable commercial quantities.

To prevent the rules on associated corporations from being circumvented, where it may reasonably be considered that one of the main reasons for the separate existence of two or more entities, in a fiscal year, is for an operator to enjoy eligible operator status regarding such fiscal year, such entities will be deemed to be associated with each other during such fiscal year.

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52 For more details, see subsection 2.1.5.

An eligible operator may deduct, in calculating his annual profit or annual loss, for a fiscal year, on account of the exploration allowance, an amount not exceeding the balance in his cumulative exploration expense account at the end of such fiscal year.

An operator other than an eligible operator may deduct, in calculating his annual profit or annual loss, for a fiscal year, on account of the exploration allowance, an amount not exceeding the lesser of the following two amounts:

— the balance of his cumulative exploration expense account at the end of such fiscal year;

— 10% of his annual profit for the fiscal year calculated before such allowance and the allowance for mineral deposit evaluation and mine development before production.

This exploration allowance will apply to a fiscal year of an operator ending after the day of the Budget Speech, regarding exploration expenses incurred after that day.

In the case of an operator's fiscal year that includes the day of the Budget Speech, the above 10% rate will be replaced by a rate corresponding to 10% of the fraction obtained by dividing the number of days in such fiscal year following the day of the Budget Speech by the number of days in such fiscal year.

- **Allowance for mineral deposit evaluation and mine development before production**

Generally speaking, the mineral deposit evaluation and mine development expenses before production that will be added to the cumulative account giving rise to the allowance for mineral deposit evaluation and mine development expenses before production can currently be deducted in full during the fiscal year when they are incurred or during a subsequent fiscal year by means of the exploration, mineral deposit evaluation and mine development allowance.

An operator will, for a fiscal year, be able to deduct in calculating his annual profit or annual loss, on account of the allowance for mineral deposit evaluation and mine development before production, an amount not exceeding the balance of his cumulative mineral deposit evaluation and mine development expenses before production account at the end of such fiscal year.

This allowance for mineral deposit evaluation and mine development before production will apply to a fiscal year of an operator ending after the day of the Budget Speech, regarding mineral deposit evaluation and mine development expenses before production incurred after that day.

- **Allowance for mineral deposit evaluation and mine development after production**

In general, mineral deposit evaluation and mine development expenses after production that will be added to the cumulative account giving rise to the allowance for mineral deposit evaluation and mine development after production can currently be deducted on account of current expenditures. Accordingly, these expenses are deductible in full in calculating the operator's annual profit for the fiscal year during which they are incurred, but only for such fiscal year.

This treatment can have undesirable effects: this type of expenses normally brings a benefit that extends well beyond the fiscal year during which they are incurred; the treatment currently applied to this type of expenses does not allow them to be appropriately matched with the value of the mineral substances whose extraction they make possible; it is possible that an operator who incurs such expenses in substantial amounts during a fiscal year may pay very low, and even no, mining duties, even though the value at the mine shaft head of the mineral substances he develops is in other respects high. This is precisely the type of situation where the state does not obtain fair compensation for the use of a non-renewable resource that belongs to the public domain. This revision of the mining duties regime is designed to correct such situations.

Second, the fact that these expenses are treated as current expenditures, combined with the absence of a loss carry-forward mechanism, can result in such expenses, or part of them, conferring no benefit on an operator. In such a situation, the operator is disadvantaged.

The calculation details of the allowance for mineral deposit evaluation and mine development after production must therefore avoid such undesirable situations.

Accordingly, this allowance, clearly attributable to mineral deposit evaluation and development of a mine in particular,[53] will be deductible in calculating the annual profit from such mine. A separate cumulative account will therefore be created for each mine of an operator.

More specifically, an operator must, for a fiscal year beginning after the day of the Budget Speech, deduct in calculating the annual profit from a mine, on account of the allowance for mineral deposit evaluation and mine development after production of such mine, an amount corresponding to the lesser of the following two amounts:

— 30% of the balance of his cumulative mineral deposit evaluation and mine development after production account of such mine at the end of such fiscal year;

53 See prec. note.

— the annual profit from such mine calculated before such allowance and the processing allowance.

Moreover, where an operator's fiscal year comprises fewer than 12 months, the 30% rate will be reduced by the proportion represented by dividing 365 less the number of days in such fiscal year by 365.

This allowance for mineral deposit evaluation and mine development after production will apply to an operator's fiscal year ending after the day of the Budget Speech, regarding mineral deposit evaluation and mine development expenses before production incurred after that day.

In the case of an operator's fiscal year that includes the day of the Budget Speech, such operator must deduct in calculating his annual profit, for such fiscal year, on account of the allowance for mineral deposit evaluation and mine development after production for all his mines, an amount corresponding to the lesser of the following two amounts:

— 30% of the total of all the balances of his cumulative mineral deposit evaluation and mine development after production accounts of all his mines at the end of such fiscal year;

— his annual profit calculated before such allowance, the exploration, mineral deposit evaluation and mine development allowance, the exploration allowance, the additional exploration allowance, the allowance for mineral deposit evaluation and mine development before production and the processing allowance, multiplied by the fraction obtained by dividing the number of days of such fiscal year that follow the day of the Budget Speech by the number of days of such fiscal year.

❑ Elimination of the additional exploration allowance regarding exploration expenses incurred after the day of the Budget Speech

Under the rules that currently apply an operator may claim an additional exploration allowance, which is based in particular on a cumulative account.

Briefly, this cumulative account consists, at any time, of the total of all amounts each of which is an expense incurred by the operator after May 12, 1994 and before that time, in respect of exploration or underground core drilling work carried out in Québec, where the mineral substances in respect of which the work is carried out form part of the domain of the state and where the work is performed in connection with the operator's mining operation:

— elsewhere than on land under a mining lease or mining concession, and performed before ore is extracted;

— on land under a mining lease or mining concession, except land from which ore has been or was extracted in the five fiscal years preceding that time.

Expenses incurred after the day of the Budget Speech will no longer be eligible for the additional exploration allowance.

❑ Exclusion of exploration expenses, mineral deposit evaluation and mine development expenses before production and mineral deposit evaluation and mine development expenses after production covered by flow-through financing

In general, under existing rules, an operator's exploration, mineral deposit evaluation and mine development expenses funded by issuing flow-through shares and covered by a waiver, under the *Taxation Act*, in favour of the acquirers of the flow-through shares are deemed not to be such expenses incurred by such operator.[54]

This principle will be extended to also apply to such expenses funded by issuing flow-through shares and covered by a waiver under the *Income Tax Act*.[55]

Accordingly, an operator's mineral deposit evaluation and mine development expenses before production and mineral deposit evaluation and mine development expenses after production funded by issuing flow-through shares and that are covered by a waiver, under the *Taxation Act* or under the *Income Tax Act*, in favour of the acquirers of the flow-through shares will be deemed not to be expenses incurred by such operator.[56]

This exclusion will apply regarding exploration expenses, mineral deposit evaluation and mine development expenses before production and mineral deposit evaluation and mine development expenses after production funded by issuing flow-through shares incurred after the day of the Budget Speech.

For greater clarity, the provisions of the *Taxation Act* and the *Income Tax Act* allowing expenses to be deemed incurred the last day of a preceding calendar year will be without effect where the question is one of establishing whether expenses were incurred after the day of the Budget Speech for the purposes of the MDA.

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54 Exceptions apply to this rule, in particular in the case where the flow-through shares are issued to a legal person who undertakes in writing with the Minister of Natural Resources and Wildlife not to waive, under the *Taxation Act*, the expenses funded by these flow-through shares, and such legal person honours his undertaking.

55 R.S.C. 1985, c. 1 (5th Supp.).

56 The exceptions referred to in note 54 will also apply to this rule, in particular in the case where the flow-through shares are issued to a legal person who undertakes in writing with the Minister of Natural Resources and Wildlife not to waive, under the *Income Tax Act*, the expenses funded by these flow-through shares, and such legal person honours its undertaking.

2.1.4 Adjustments to the credit on duties refundable for losses

Under existing rules, the credit on duties refundable for losses an operator may claim, for a fiscal year, corresponds, briefly, to 12% of the lesser of:

— his adjusted annual loss for such fiscal year;

— certain exploration, mineral deposit evaluation and mine development expenses[57] he incurred, for the fiscal year, not exceeding the amount he deducted on account of the exploration, mineral deposit evaluation and mine development allowance in calculating his annual profit for such fiscal year.

An operator's adjusted annual loss, for a fiscal year, corresponds to his annual loss, for such fiscal year, reduced by the lesser of the following amounts:

— the processing allowance he could claim, for such fiscal year, if it were calculated based solely on the limit based on the capital cost to him of each property that is a processing asset;

— 65% of his annual loss for such fiscal year.

The credit on duties refundable for losses has significant effects on the net compensation the government collects under the mining duties regime. In this context, there is reason to review the parameters of the calculation of the credit on duties refundable for losses.

❑ Changes to the parameters of the calculation of the credit on duties refundable for losses

The allocation of all the exploration, mineral deposit evaluation and mine development expenses among three separate cumulative accounts will have major effects on the amount of the credit on duties refundable for losses an operator may claim, mainly because of the parameters of the calculation of the amounts an operator may claim, for a fiscal year, regarding each of the allowances these three cumulative accounts give rise to.

Because of the calculation applicable to the exploration allowance, the amount an operator other than an eligible operator can claim, regarding such allowance, for a fiscal year, is limited to 10% of his annual profit for the fiscal year.

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57 Some exploration expenses incurred in the Mid-North and the Far North give rise to an increase of 25% of these expenses.

In the case of cumulative mineral deposit evaluation and mine development expenses after production, the amount an operator must deduct, for a fiscal year, on account of the allowance for mineral deposit evaluation and mine development after production, is limited on the basis of the annual profit of the mine to which such cumulative mineral deposit evaluation and mine development expenses after production relate.

First, the rate of the credit on duties refundable for losses will rise gradually, exactly at the same pace as the mining duties rate, reaching 16% January 1, 2012. The rate of the credit on duties refundable for losses, for a fiscal year of an operator that is partially included in the period during which the tax rate gradually rises, will correspond to the weighted tax rate applicable to such fiscal year.[58]

Second, to reduce the cost to the government of the credit on duties refundable for losses, at most half the exploration expenses incurred during a fiscal year will enable an eligible operator to claim a credit on duties refundable for losses for such fiscal year. The portion of such expenses that an operator does not claim as a deduction in calculating his annual profit, for the fiscal year, will remain allowable in calculating his annual profit for a subsequent fiscal year. Because of the increase in the tax rate to 16%, the credit on duties refundable for losses an eligible operator may claim regarding its exploration expenses may reach 8% of such expenses.

Briefly, the credit on duties refundable for losses an eligible operator may claim, for a fiscal year, will correspond to the weighted tax rate or the 16% tax rate, as the case may be, applicable to such fiscal year, multiplied by the lesser of:

— his adjusted annual loss for such fiscal year;

— the total of:

  — 50% of the expenses he incurred, for such fiscal year, not exceeding the amount he deducted, for such fiscal year, on account of the exploration allowance;

  — the mineral deposit evaluation and mine development expenses before production he incurred, for such fiscal year, not exceeding the amount he deducted, for such fiscal year, on account of the allowance for mineral deposit evaluation and mine development before production.

In the case of an operator other than an eligible operator, the credit on duties refundable for losses he may claim for a fiscal year will correspond, briefly, to the weighted tax rate or the 16% tax rate, as the case may be, applicable to such fiscal year, multiplied by the lesser of:

— his adjusted annual loss for such fiscal year;

58 For more details, see subsection 2.1.1.

— the mineral deposit evaluation and mine development expenses before production he incurred, for such fiscal year, not exceeding the amount he deducted, for such fiscal year, on account of the allowance for mineral deposit evaluation and mine development before production.

For a fiscal year that includes the day of the Budget Speech, the credit on duties refundable for losses an operator may claim may be attributable, on the one hand, to exploration, mineral deposit evaluation and mine development expenses incurred no later than the day of the Budget Speech and, on the other, to exploration expenses and mineral deposit evaluation and mine development expenses before production, incurred after that day, where the total of such expenses is limited by the adjusted annual loss for such fiscal year.

In this context, briefly, the credit on duties refundable for losses an eligible operator may claim for a fiscal year that includes the day of the Budget Speech will correspond to the weighted tax rate applicable to such fiscal year, multiplied by the lesser of:

— his adjusted annual loss for such fiscal year;

— the total of:

  — the exploration, mineral deposit evaluation and mine development expenses he incurred, for such fiscal year, not exceeding the amount he deducted, for such fiscal year, on account of the allowance for exploration, mineral deposit evaluation and mine development;

  — 50% of the exploration expenses he incurred, for such fiscal year, not exceeding the amount he deducted, for such fiscal year, on account of the exploration allowance;

  — the mineral deposit evaluation and mine development expenses before production he incurred, for such fiscal year, not exceeding the amount he deducted, for such fiscal year, on account of the allowance for mineral deposit evaluation and mine development before production.

In the case of an operator other than an eligible operator, the credit on duties refundable for losses he may claim for a fiscal year that includes the day of the Budget Speech will correspond, briefly, to the weighted tax rate applicable to such fiscal year, multiplied by the lesser of:

— his adjusted annual loss for such fiscal year;

— the total of:

  — the exploration, mineral deposit evaluation and mine development expenses he incurred, for such fiscal year, not exceeding the amount he deducted, for such fiscal year, on account of the allowance for exploration, mineral deposit evaluation and mine development;

— the mineral deposit evaluation and mine development expenses before production he incurred, for such fiscal year, not exceeding the amount he deducted, for such fiscal year, on account of the allowance for mineral deposit evaluation and mine development before production.

❑ Adjustments resulting from the change to the parameters of the processing allowance

The change to the parameters used to calculate the processing allowance will also apply to the calculation of an operator's adjusted annual loss for the purposes of the determination of the credit on duties refundable for losses. The modified parameters of the processing allowance concern the rates of return allowed on processing assets, including the elimination of the increased rates of return applicable in the case of mine tailings processing, and the rate based on the annual profit.

Accordingly, an operator's adjusted annual loss, for a fiscal year, will correspond to his annual loss, for such fiscal year, reduced by the lesser of the following amounts:

— the processing allowance he could claim, for such fiscal year, if it were calculated depending solely on the limit based on the capital cost to him of each property that is a processing asset using the new 7% and 13% rates of return;[59]

— 55% of his annual loss for such fiscal year.

The 55% rate and the new 7% and 13% rates of return will apply regarding an operator's fiscal year ending after the day of the Budget Speech. Should an operator's fiscal year include that day, the rates actually applicable for such fiscal year will be weighted rates reflecting, on the one hand, the number of days of the fiscal year preceding the day after the day of the Budget Speech and, on the other, the number of days of the fiscal year following the day of the Budget Speech.

For example, the rates applicable for the 2010 fiscal year of an operator whose fiscal year corresponds to the calendar year will be 57.44%, 7.24% and 13.49%[60] respectively.

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59 For more details, see the heading "Changes to the parameters of the processing allowance", page A.33.

60 These rates are calculated using the following formula: (A X (B / C)) + (D X (E / C))

where:

A represents the rate applicable up to the day of the Budget Speech.

B represents the number of days of the fiscal year that precede the day after the day of the Budget Speech.

C represents the total number of days of the fiscal year.

D represents the new rate applicable after the day of the Budget Speech.

E represents the number of days of the fiscal year that follow the day of the Budget Speech.

❑ Impact resulting from the exclusion of expenses covered by flow-through financing

Since an operator's exploration expenses and mineral deposit evaluation and mine development expenses before production, funded by issuing flow-through shares and that are covered by a waiver, under the *Taxation Act* or under the *Income Tax Act*, in favour of the acquirers of the flow-through shares will be deemed not to be expenses incurred by such operator, they obviously will no longer be eligible for the credit on duties refundable for losses.

2.1.5 Changes to the calculation of an operator's annual profit or annual loss

Under the existing system, an operator must pay mining duties on the basis of its annual profit for a fiscal year. Briefly, an operator's annual profit for a fiscal year is established by adding up all the items to be included for such fiscal year (mainly the operator's gross value of annual output, whether from one or more mines) and subtracting the total obtained by adding up the items he may deduct (mainly the various deductions and allowances stipulated by the mining duties regime, whether they relate to one or more mines). An operator's annual loss, for a fiscal year, is established by applying the same rules as for the annual profit, with the necessary adaptations.

This method of establishing an operator's annual profit, for a fiscal year, may enable an operator that operates more than one mine to pay very low, and even no, mining duties, despite the fact that the value at the mine shaft head of the resource at one of these mines is significant. This situation can occur in particular where the operator must incur substantial expenditures regarding one of his mines, i.e. expenditures that significantly exceed the revenues such mine generates.

In this context, the calculation method of an operator's annual profit, for a fiscal year, will be changed by making use of a "mine-by-mine" approach, with the objective of limiting situations where the government does not obtain fair compensation for the use of a non-renewal resource belonging to the public domain.

Accordingly, an operator's annual profit, for a fiscal year, will correspond henceforth to the excess of the sum of the annual profits from each mine he operates, for the fiscal year, over the total formed by the amount of the exploration allowance, the amount of general and administrative expenditures relating to exploration work, the amount of the additional exploration allowance, the amount of the allowance for mineral deposit evaluation and mine development before production, the amount of the exploration, mineral deposit evaluation and mine development allowance, the amount of the gifts made to Québec he can deduct under the existing rules and the amount of expenditures for scientific research and experimental development (R&D) he can also deduct under the currently rules, for the fiscal year.

Gifts made to Québec by an operator, during a fiscal year, are deductible only up to 10% of the sum of the annual profits of each mine he operates for the fiscal year.

The annual loss of an operator, other than an eligible operator, from a mine, for a fiscal year, will be deemed to be zero for the determination of his annual profit or annual loss, for such fiscal year.

Moreover, an operator who is an eligible operator, for a fiscal year, will be deemed to operate a single mine in the course of such fiscal year, for the calculation both of his annual profit and annual loss.

An operator's annual profit from a mine, for a fiscal year, will be established according to the same rules as those currently used to establish an operator's annual profit, for a fiscal year,[61] subject to the following clarifications:

— the items to be included in the calculation of the annual profit from a mine will correspond to:

  — the share of the operator's gross value of annual output that are reasonably attributable to such mine;

  — the portion of an item to be included in the operator's annual profit that can reasonably be attributable to the operation of such mine;

— the items to be deducted in the calculation of the annual profit from a mine will correspond to:

  — the portion of an expenditure reasonably attributable to the operation of such mine;

  — in the case of the depreciation allowance, the amount of such allowance reasonably attributable to such mine;

  — in the case of the additional depreciation allowance, the amount of such allowance reasonably attributable to such mine;

61 For example, an operator will not be able to deduct, in calculating his annual profit from a mine, for a fiscal year, the items mentioned in section 8.0.1 of the MDA.

- in the case of the additional allowance for a northern mine, the amount of such allowance reasonably attributable to such mine;
- in the case of the processing allowance, the amount of such allowance established on the basis of the use made of each property that is a processing asset used in processing the ore from such mine during the fiscal year and that is held by the operator at the end of such fiscal year, on the basis of the proportion of utilization of each such property in the processing of ore from such mine;
- in the case of the additional allowance for a mine located in Northern Québec, the amount of such allowance calculated for such mine;
- in the case of the allowance for mineral deposit evaluation and mine development after production, the amount of such allowance calculated for such mine.

The following items are not deductible in the calculation of an operator's annual profit from a mine since they are deductible in the calculation of the operator's annual profit: gifts made to Québec, expenditures incurred for R&D work, the exploration allowance, the general and administrative expenditures relating to exploration work, the additional exploration allowance, the allowance for mineral deposit evaluation and mine development before production and the exploration, mineral deposit evaluation and mine development allowance.

An operator's annual loss, for a fiscal year, will be established by applying the same rules as for an operator's annual profit, with the necessary adaptations.

For the purposes of the MDA, the expression "mine" means any place, located in Québec, whose purpose is the extraction of a mineral substance, within the meaning of the MDA.

This new method of calculating an operator's annual profit or annual loss, for a fiscal year, will apply to an operator's fiscal year beginning after the day of the Budget Speech.

2.1.6 Determination of the value of precious stones

Although precious stones are currently covered by the MDA mining duties regime, this regime is poorly adapted to the reality of this type of resource, particularly in regards to the determination of the gross value of annual output.

Unlike most other mineral substances, there is no market price that makes it easy to know the value of a precious stone, since the value of each precious stone must be established on the basis of its specific characteristics.

Moreover, it is possible for precious stones from one mine to be mixed with precious stones from another mine. Such other mine could even be located outside Québec.

In the context where the gross value of annual output from precious stones may grow substantially over the coming years, there is reason to stipulate special rules to facilitate the determination of the gross value of annual output attributable to precious stones.

For the purposes of these special rules, the expression "precious stone" means a diamond, emerald, ruby or sapphire.

❑ Determination of gross value

The determination of the gross value of precious stones will be based on their value before cutting or polishing. It must be established at the mine site and the operator must sort and clean the precious stones to facilitate their evaluation. The determination of the gross value of precious stones must also be made by the operator and an appraiser mandated by the Minister of Natural Resources and Wildlife (the Minister).

If the operator and the Minister agree on the value of the precious stones, the gross value of the precious stones will then correspond to the amount they have agreed. If the operator and the Minister fail to agree on the value of the precious stones, the gross value of the precious stones will then correspond to the maximum value that could be obtained from selling the stones on a free market, once they are sorted according to their commercial classification.

However, in the case where precious from a mine in Québec are ultimately sold by the operator, without being mixed with precious stones from another mine, to a person other than a person related to the operator, the gross value of such precious stones will then correspond to the proceeds of such sale. In the event that such a sale takes place during a fiscal year subsequent to the one during which the value of the precious stones is determined, an appropriate adjustment, corresponding to the difference between the proceeds of the sale and the value of the precious stones initially considered, will be made to the calculation of the annual profit from the mine from which such precious stones were obtained for such subsequent fiscal year.

Moreover, the MDA already stipulates that in case of doubt, or where the gross value of an operator's annual output, for a fiscal year, does not correspond to the market value, the Minister may value the mineral substance and, where applicable, the processing products from the operator's mining operation, for such fiscal year, and that such valuation constitutes the gross value of the operator's annual output for the fiscal year, for the purposes of the Act. This rule will also apply to the determination of the value of precious stones.

❑ Application conditions

The operator must reimburse the Minister for the costs of the evaluation of the precious stones by the appraiser mandated by the Minister.

The obligations relating to the determination of the value of precious stones will henceforth be part of the conditions an operator must satisfy to maintain the mining lease or mining concession granted to him under the *Mining Act*.[62]

❑ Application date

This new way of determining the gross value of the precious stones will apply regarding an operator's fiscal year beginning after the day of the Budget Speech.

2.1.7 Clarification regarding amounts paid to a community or a municipality

Under existing rules, an operator cannot deduct, in calculating its annual profit or annual loss, for a fiscal year, an expenditure, unless it was incurred by the operator regarding a mining operation to achieve the gross value of annual output from such mining operation and provided such expenditure is directly related to it.

Certain amounts paid by an operator to a community or a municipality under an agreement and intended to provide such community or municipality with benefits or spinoffs have always been considered non-deductible for the reason that they do not relate directly to the operator's mining operation.

To avoid any ambiguity in this regard, the MDA will be clarified to stipulate that an operator may not deduct any amount, other than a gift that is otherwise deductible, paid to a community or a municipality and intended to provide such community or municipality with benefits or spinoffs.

This clarification will apply by declaration.

62 R.S.Q., c. M-13.1.

2.2 Replacement of the international financial centres regime with a refundable tax credit

The international financial centres (IFC) regime,[63] introduced on January 1, 1986, is designed to encourage, chiefly by means of tax incentives, the establishment, development and maintenance within the urban agglomeration of Montréal[64] of businesses specializing in international financial transactions.

Under the existing legislation, an IFC is a business or part of a business established in the urban agglomeration of Montréal all of whose activities bear on qualified international financial transactions (QIFT) within the meaning of the *Act respecting international financial centres*[65] (AIFC).

An IFC business can be carried on through a corporation or a partnership and the benefits stipulated in the legislation regarding the operations of the IFC include, in particular, a 75% partial exemption from income tax, the tax on capital, and the employer contribution to the Health Services Fund (HSF). In addition, to facilitate hiring of employees specialized in the field of international financial transactions, the IFC regime also stipulates tax benefits for IFC employees.

While the IFC regime has evolved constantly since its introduction, in particular regarding the eligibility of new transactions and new financial products, and on two occasions, namely in the 1998-1999 Budget[66] and the 2004-2005 Budget,[67] more significant changes were made to the regime, the basic structure of the tax assistance allowed businesses has changed little.

However, over the same period, various factors, in particular regarding information technology, have significantly transformed how things are done in this industry.

Accordingly, so that the tax assistance granted to this sector responds adequately to the needs of businesses, the IFC regime will be replaced with a refundable tax credit applying to the eligible salary paid to eligible employees of an IFC operator.

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63 MINISTÈRE DES FINANCES DU QUÉBEC, *1985-1986 Budget – Budget Speech, Appendix A*, April 23, 1985, p. A-40.

64 The urban agglomeration of Montréal consists of the territories of the Ville de Montréal, the City of Baie-D'Urfé, the City of Beaconsfield, the City of Côte-Saint-Luc, the City of Dollard-Des Ormeaux, the City of Dorval, the Town of Hampstead, the Town of Kirkland, the City of L'Île-Dorval, the City Montréal-Est, the City of Montréal-Ouest, the Town of Mont-Royal, the City of Pointe-Claire, the City of Sainte-Anne-de-Bellevue, the Village of Senneville and the City of Westmount.

65 R.S.Q., c. C-8.3.

66 MINISTÈRE DES FINANCES DU QUÉBEC, *1998-1999 Budget – Additional Information on the Budgetary Measures*, March 31, 1998, Section 1, p. 17.

67 MINISTÈRE DES FINANCES DU QUÉBEC, *2004-2005 Budget – Additional Information on the Budgetary Measures*, March 30, 2004, Section 1, p. 139.

More specifically, all the partial exemptions an IFC operator currently enjoys regarding income tax, the tax on capital and the employer contributions to the HSF as well as the deduction in calculating taxable income an IFC employee other than a foreign specialist can claim, will be replaced with a refundable tax credit for the IFC operator of up to $20 000 per eligible employee on an annual basis. In addition, an IFC must henceforth have at least six eligible employees and be operated by an eligible corporation.

Operators of existing IFCs may elect, as of the day following the day of the Budget Speech, to receive this new refundable tax credit.

Operators of existing IFCs that do not elect the new refundable tax credit may continue to be covered by the existing regime until December 31, 2012 where the operator is a corporation or until December 31, 2013 where the operator is a partnership.

Regardless of the election made by his employer as to the form of tax assistance of the IFC, an IFC employee, other than a foreign specialist, who currently claims a deduction in the calculation of taxable income of up to $50 000 per year may continue to receive a tax benefit, which, however, will gradually reduce, until December 31, 2013.

Lastly, regardless of his employer's election as to the form of the tax assistance of the IFC, the rules concerning the deduction in calculating taxable income that a foreign specialist working for an IFC may claim will be maintained. Accordingly, this tax benefit will continue to be accessible to foreign specialists, both current and future, working for an IFC.

2.2.1 Introduction of a refundable tax credit for IFCs

Generally speaking, an eligible corporation that carries on a business in the urban agglomeration of Montréal recognized by the Minister of Finance as an IFC in order to carry out QIFTs there may, under certain conditions, claim, for a taxation year, a refundable tax credit for IFCs representing 30% of the eligible salary incurred for the year for an eligible employee. Among other conditions, the eligible corporation must obtain an annual eligibility certificate from the Minister of Finance regarding its IFC business, which, in particular, must have a minimum of six eligible employees.

Briefly, for the purposes of this measure, an eligible employee is an employee regarding whom the Minister of Finance has issued a qualification certificate. Such an employee must work full-time for the IFC and at least 75% of his work time must consist in carrying out QIFTs. Furthermore, the eligible corporation must obtain an eligibility certificate each year from the Minister of Finance regarding such employee.

The base of the refundable tax credit, for a taxation year, will consist of the eligible salaries incurred for such year by the eligible corporation regarding its eligible employees. However, the eligible salary of an eligible employee may not exceed $66 667 on an annual basis. Given that a rate of 30% will apply to this measure, the amount of the refundable tax credit may therefore not exceed $20 000 per eligible employee on an annual basis.

❑ Eligible corporation

In general, a corporation, other than an excluded corporation, that holds an IFC qualification certificate and that, during a taxation year, has an establishment in the urban agglomeration of Montréal where it carries on a business all or part of whose operations consist in carrying out eligible activities, may claim, for such year, under certain conditions, the refundable tax credit for IFCs.

However, such corporation will have to obtain, each year, an eligibility certificate from the Minister of Finance[68] certifying that it holds a valid qualification certificate and confirming that, for the period of the taxation year covered by the qualification certificate, on the one hand, all or part of its activities constituted eligible activities and, on the other, that such eligible activities required, at all times, a minimum of six eligible full-time employees. For the purposes of this criterion, an employee of an eligible corporation who is recognized as a foreign specialist will be deemed an eligible full-time employee of the eligible corporation.

❑ Excluded corporation

The expression "excluded corporation", for a taxation year, means:

— a corporation that is tax-exempt; or

— a Crown corporation or a wholly-controlled subsidiary of such a corporation.

❑ Qualification certificate

Rules similar to those currently stipulated by the AIFC for issuing certificates qualifying a business as an IFC, certificates qualifying an employee as an IFC employee and certificates qualifying an employee as a foreign specialist will apply, with the necessary adaptations, to the refundable tax credit for IFCs.

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68 On December 20, 2007, it was announced in *Information Bulletin 2007-10* that the non-tax parameters of certain fiscal measures involving the participation of a public organization will be consolidated in framework legislation. Accordingly, the non-tax parameters administered by the Minister of Finance relating to the issuing of annual eligibility certificates, as well as the parameters, indicated below, relating to the issuing of qualification certificates for the refundable tax credit for IFCs, will be incorporated into the framework legislation.

❑ Eligible activities

For the purposes of the refundable tax credit for IFCs, the expression "eligible activities" means all the activities constituting QIFTs within the meaning of the AIFT.

Consequently, the activities covered by the new refundable tax credit will be the same as those covered by the existing IFC regime.

❑ Eligible employee

The expression "eligible employee" of an eligible corporation, for a taxation year, means an employee, including a specified shareholder of the eligible corporation, of an establishment of the eligible corporation located in the urban agglomeration of Montréal, regarding whom the Minister of Finance has issued a qualification certificate and for whom the Minister of Finance has issued, for such year, an eligibility certificate certifying that the following conditions have been satisfied:

— the qualification certificate issued to the eligible corporation in relation to such employee is valid;

— the employee held a full-time job involving at least 26 hours of work a week, for an expected minimum period of 40 weeks;

— at least 75% of the duties of such employee with the eligible corporation were devoted to carrying out eligible activities in the course of the operations of the business of the eligible corporation for which a qualification certificate was valid.

For greater clarity, the duties of an employee devoted to carrying out eligible activities with an eligible corporation mean the duties of such employee devoted to the carrying out of QIFTs, i.e. those that are directly attributable to the transactional process specific to the QIFTs that were executed. However, unless they constitute QIFTs themselves, the employee's duties relating to corporate management, finance, accounting, taxation, legal affairs, marketing, communications, reception work, secretarial work, messenger services, office computing or human and physical resources management do not constitute duties that are directly attributable to the transactional process specific to a QIFT.

In addition, the Minister of Finance may issue an eligibility certificate regarding an IFC employee for part of a taxation year of an eligible corporation, in which case the eligibility certificate must indicate the eligibility period of the employee.

Lastly, even if the criterion relating to the maintenance of a minimum of six eligible employees at all times is not satisfied, the Minister of Finance may issue eligibility certificates to an eligible corporation that is able to demonstrate, to his satisfaction, that the failure to satisfy such criterion is attributable to exceptional circumstances beyond its control, such as the departure of employees and the impossibility of filling such vacant positions concomitantly. However, such employees must be replaced within a reasonable time, taking the availability of qualified manpower into account.

❑ Eligible salary

The expression "eligible salary" of an eligible corporation, for a taxation year, means the salary calculated according to the *Taxation Act*[69] and incurred by the eligible corporation, in the year, regarding its eligible employees for such year.

For greater clarity, the entire salary incurred regarding an eligible employee may constitute, subject to the rules described below, an eligible salary for the purposes of this refundable tax credit. However, an eligible salary does not include a salary incurred regarding an employee during the period of validity of his foreign specialist qualification certificate.

More specifically, the amount of salaries incurred by an eligible corporation, during a taxation year, must be reduced by the amount of any government assistance, any non-government assistance, and any profit or benefit attributable to such salaries, according to the usual rules.

Moreover, the eligible salary, regarding an eligible employee, will be limited to an amount of $66 667, calculated on an annual basis, i.e. on the basis of the number of days of the taxation year of the eligible corporation where the employee qualifies as an eligible employee.

Accordingly, because of the 30% rate, the amount of the refundable tax credit, for a taxation year, may not exceed $20 000 per eligible employee, on an annual basis.

Lastly, the eligible salaries of an eligible corporation must have been paid at the time the claim for the refundable tax credit is filed with Revenu Québec.

69 R.S.Q., c. I-3.

❑ Special application details

To receive the refundable tax credit for IFCs, for a taxation year, an eligible corporation must enclose with its tax return, for such year, a form prescribed by the Minister of Revenue, a copy of the eligibility certificates issued in its regard as well as a copy of the eligibility certificate issued in relation to its eligible employees for which it is claiming the tax credit.

In addition, in the case where eligible salaries for which a tax credit has been granted are refunded to an eligible corporation, in whole or in part, the tax credit granted regarding the amount thus refunded will be recaptured by means of a special tax.

Moreover, the tax legislation contains rules designed to prevent the aggregation of tax assistance regarding an expenditure that may give rise to more than one tax credit for more than one taxpayer or for the same taxpayer. For greater clarity, these rules will also apply to corporations eligible for the refundable tax credit for IFCs.

Lastly, a similar rule will apply to ensure that, where the activities of an eligible corporation are covered both by this refundable tax credit and by a tax holiday for the corporation, the eligible activities giving rise to this refundable tax credit may not constitute eligible activities for the purposes of such a tax holiday. In this regard, a concordant amendment will be made to the legislation relating to such a tax holiday.

❑ Period of eligibility for the tax credit

The refundable tax credit for IFCs may be granted to an eligible corporation regarding eligible salaries it incurs and pays to its eligible employees after the day of the budget speech.

2.2.2 Deduction maintained for foreign specialist working for an IFC

The rules applicable to a foreign specialist working for an IFC under the current IFC regime will also apply to a foreign specialist working for an IFC operated by an eligible corporation under the refundable tax credit for IFCs.

Consequently, such a foreign specialist working for an eligible corporation that operates an IFC may benefit, for a period not exceeding five years, from a deduction, in calculating his taxable income, representing a fraction, expressed as a percentage, of his world income. Like the deduction currently applicable to such a foreign specialist, this rate of this deduction will be 100% for the first two years of a foreign specialist's employment with an IFC, and thereafter will decline to 75%, 50% and 37.5% respectively for the third, fourth and fifth year of the foreign specialist's employment with an IFC.

2.2.3 Clarifications in relation to the issuing of qualification certificates under the IFC regime

The refundable tax credit for IFCs replaces the IFC regime that currently applies. Consequently, no new qualification certificate of a business for the IFC regime and, subject to the exception stipulated in relation to a foreign specialist,[70] no new qualification certificate of an employee for the IFC regime will be issued as of the day following the day of the Budget Speech in relation to an employee who enters into an employment contract with an IFC operator after that day.

However, a qualification certificate of an employee under the IFC regime may be issued in relation to an employee who entered into an employment contract with an IFC operator no later than the day of the Budget Speech and commenced employment, with such operator, no later than June 30, 2010.

Moreover, in view of the continuation of the deduction for foreign specialists, new foreign specialist qualification certificates may be issued after the day of the budget speech.

2.2.4 Implementation of a transition period for active IFC operators and their existing employees

The replacement of the IFC regime with a refundable tax credit for IFCs is a significant change in approach in how Québec supports the financial sector.

To mitigate the financial impact for active IFC operators and their existing employees, a transition period is desirable.

This subsection deals with the transition period that will apply to active IFC operators on the day of the Budget Speech as well as their existing employees.

70 For more details, see the heading "Foreign specialist working for an IFC", page A.61.

❑ Corporation operating an IFC

A corporation that has a valid qualification certificate regarding an IFC in operation on the day of the Budget Speech may continue to benefit from the current IFC regime until December 31, 2012. However, if it so elects, such election being irrevocable, such a corporation may forego the IFC regime and begin to benefit from the refundable tax credit for IFCs at any time as of the day following the day of the Budget Speech.

To do so, the corporation must obtain a qualification certificate. This certificate will take effect as of the date indicated on it, which however will be after the cancellation date of any qualification certificate issued earlier under the IFC regime. In addition, the annual contribution payable by such corporation under the regulations[71] will be the contribution usually payable for the continuation of IFC activities.

Lastly, where such an IFC operator elects to benefit from the new measure, the benefits of the IFC regime for the taxation year during which the change occurs will apply in the proportion represented by dividing the number of days of such taxation year preceding the effective date of the change by the number of days in such taxation year.

❑ Partnership operating an IFC

Unlike the IFC regime, which is open to corporations and to partnerships operating an IFC, the refundable tax credit for IFCs will be allowed only for corporations. Consequently, a partnership will not be eligible for the new measure.

However, a partnership that has a valid qualification certificate regarding an IFC in operation on the day of the Budget Speech may continue to benefit from the current IFC regime until December 31, 2013. Like the situation described above, where the fiscal year of such a partnership includes January 1, 2014, the tax benefits arising from the IFC regime, for such fiscal year, will apply in the proportion represented by the number of days in such fiscal period preceding January 1, 2014, divided by the number of days included in such fiscal period.

❑ IFC employee other than a foreign specialist

Under the existing legislation, an IFC employee, other than a foreign specialist, can claim a deduction in calculating his taxable income equal to 37.5% of his income from the IFC. However, such deduction may not exceed $50 000 on an annual basis.

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71 *Regulation respecting the tariff of fees and the annual contribution payable under the Act respecting international financial centres*, R.R.Q., c. C-8.3, r. 1.

Regardless of the employer's choice as to the form of tax assistance the IFC will receive, a person, other than a foreign specialist, working for an IFC the day of the Budget Speech and regarding whom a qualification certificate is valid at that time as well as a person who entered into an employment contract with an IFC operator no later than the day of the Budget Speech and commences employment with such operator before July 1, 2010, may, if they satisfy the conditions otherwise applicable, benefit from a transition period ending on whichever of the following dates comes first: the day the employee ceases to work at the IFC or January 1, 2014.

More specifically, the deduction such an IFC employee may claim for a taxation year covered by the transition period will be limited by the following parameters:

— 2010: 37.5% of the income from the IFC, to a maximum of $50 000 on an annual basis;

— 2011: 30.0% of the income from the IFC, to a maximum of $40 000 on an annual basis;

— 2012: 20.0% of the income from the IFC, to a maximum of $26 667 on an annual basis;

— 2013: 10.0% of the income from the IFC, to a maximum of $13 333 on an annual basis.

Lastly, apart from the exception described below relating to a foreign specialist and the situation described above concerning an employee who commenced employment before July 1, 2010 under an employment contract entered into with an IFC operator no later than the day of the Budget Speech,[72] no new qualification certificates for an IFC employee for the purposes of the IFC regime will be issued after the day of the Budget Speech. Consequently, an IFC employee who ceases to work for an IFC after that time may no longer claim IFC employee status and will no longer be eligible for the IFC employee deduction.

❑ Foreign specialist working for an IFC

Under the existing legislation, a foreign specialist working for an IFC may claim, for a period of five years, a deduction as a foreign specialist in calculating his taxable income. For the first two years of employment of such a foreign specialist, this deduction is equal to 100% of his world income, and thereafter such proportion declines to 75%, 50% and 37.5% respectively for the third, fourth and fifth years of employment in an IFC as a foreign specialist. At the end of the five-year period, provided he otherwise satisfies the requirements applicable to an IFC employee, the foreign specialist working for an IFC may be recognized as an IFC employee and receive the tax benefits associated with such status.

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72 See subsection 2.2.3.

As mentioned earlier, regardless of the employer's election as to the form of tax assistance the IFC will receive, the replacement of the IFC regime with a refundable tax credit for IFCs will not result in changes to the deduction a foreign specialist working for an IFC may claim. Accordingly, a person working for an IFC the day of the Budget Speech and regarding whom a qualification certificate as an IFC foreign specialist is valid at such time, may, if he satisfies the conditions otherwise applicable, continue to claim the tax benefits to which he is entitled until the five-year period that applies to him ends.

In addition, a foreign specialist who, the day of the Budget Speech, is working for an IFC that elected to benefit from the new refundable tax credit for IFCs, and for whom the five-year tax exemption period ends after the day of the Budget Speech, may, if he satisfies the conditions otherwise applicable, be recognized as an IFC employee as of the day following the day his tax exemption period. Accordingly, exceptionally, an IFC employee certificate, for the purposes of the IFC regime, may be issued regarding such an employee, who may then benefit from the tax deduction otherwise applicable for the year to an IFC employee.[73]

Lastly, if he satisfies the conditions otherwise applicable, a foreign specialist who, the day of the Budget Speech, is working for an IFC that continues to participate in the IFC regime, and for whom the five-year exemption period ends after the day of the Budget Speech, but before January 1, 2013 if the IFC operator is a corporation or before January 1, 2014 if the IFC operator is a partnership, may, for the period between the date of the end of his qualification certificate as a foreign specialist and January 1, 2013 where the IFC operator is a corporation or January 1, 2014 where the IFC operator is a partnership, be recognized as an IFC employee for the purposes of the IFC regime. Accordingly, exceptionally, an IFC employee certificate, for the purposes of the IFC regime, may be issued regarding such an employee, who may then benefit from the tax deduction otherwise applicable for the year to an IFC employee.[74]

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73 For more details, see the heading "IFC employee other than a foreign specialist", page A.60.

74 See prec. note.

2.3 Adjustments to the refundable tax credits for the production of multimedia titles to allow for convergence with digital animation films

An initial refundable tax credit for multimedia titles (general component) was introduced in the May 9, 1996 Budget Speech.[75] Furthermore, in the March 31, 1998 Budget Speech,[76] a second tax credit applying specifically to corporations whose activities consist essentially in producing such titles was introduced (tax credit for specialized corporations).

In general, the difference between the two tax credits lies in the fact that a corporation that wishes to claim the tax credit for multimedia titles (general component) must obtain the required certifications for each multimedia title it produces, while a corporation that seeks to claim the tax credit for specialized corporations must obtain the required certifications for all its activities. In either case, these certifications are issued by Investissement Québec.

More specifically, the certificate issued to a specialized corporation for a taxation year certifies that all or almost all the activities it carries out in the year in Québec consist in producing, for itself or on behalf of another person or partnership, eligible multimedia titles, and, if applicable, in carrying out scientific research and experimental development relating to such titles.

Moreover, the amount of tax assistance an eligible corporation may receive is determined on the basis of the amount of its eligible labour expenditure, to which is applied a percentage that varies depending on the tax credit. From the standpoint of the tax credit for multimedia titles (general component), the percentage varies depending on the category to which each of the eligible multimedia titles produced by the corporation belongs. As for the tax credit for specialized corporations, this percentage varies depending on the category to which the eligible multimedia titles the corporation produces in a year belong.

Accordingly, in the case of a corporation eligible for the tax credit for multimedia titles (general component), the tax credit relating to an eligible multimedia title is:

— 37.5%, where the eligibility certificate certifies that the title is not produced as a result of an order, that it is intended to be commercialized and that it is available in French;

75 MINISTÈRE DES FINANCES DU QUÉBEC, *1996-1997 Budget – Fiscal and Budgetary Measures*, May 9, 1996, Appendix A, p. 45.

76 MINISTÈRE DES FINANCES DU QUÉBEC, *1998-1999 Budget – Additional Information on the Budgetary Measures*, March 31, 1998, Section 1, p. 46.

— 30%, where the eligibility certificate certifies that the title is not produced as a result of an order, that it is intended to be commercialized and that it is not available in French;

— 26.25% in other cases.

Moreover, the rate of the tax credit for a specialized corporation is:

— 37.5%, where the eligibility certificate certifies either that at least 75% of the eligible multimedia titles it produced in the year were not produced as a result of an order, that they are intended to be commercialized and that they are available in French, or that at least 75% of its gross revenue for the year is derived from such eligible multimedia titles;

— 30%, where the preceding paragraph does not apply and the eligibility certificate certifies either that at least 75% of the eligible multimedia titles the corporation produced in the year were not produced as a result of an order and that they are intended to be commercialized, or that at least 75% of its gross revenue for the year is derived from such eligible multimedia titles;

— 26.25%, where the eligibility certificates certifies, on the one hand, that less than 75% of the eligible multimedia titles the corporation produced in the year were produced without being ordered and were not intended to be commercialized and, on the other, that less than 75% of its gross revenue for the year is derived from such eligible multimedia titles.

In general, the eligible labour expenditure of an eligible corporation, for a taxation year, means all the following amounts, provided they are reasonable in the circumstances:

— the wages and salaries attributable to the eligible multimedia titles the corporation incurred in the year and paid, regarding its eligible employees of an establishment located in Québec, for eligible production work relating to such titles;

— all the amounts each of which represents the portion of the consideration that the corporation paid under a contract, for eligible production work carried out on its behalf in the year in relation to eligible multimedia titles, to a person or a partnership that carried out all or part of such eligible production work and with whom it is not at arm's length at the time the contract is entered into, that can reasonably be attributed to the wages or salaries attributable to such titles that such person or partnership incurred and paid regarding its eligible employees of an establishment located in Québec, or that could be so attributed if it had such employees;

— all the amounts each of which represents half the portion of the consideration that the corporation paid under a contract, for eligible production work in relation to eligible multimedia titles, to a person or a partnership with whom it is at arm's length at the time the contract is entered into, that can reasonably be attributed to such eligible production work carried out on its behalf in the year by the employees of an establishment of such person or such partnership located in Québec, or that could be so attributed if it had such employees.[77]

Moreover, the eligible production work relating to an eligible multimedia title means the work done to carry out the stages of production of such title during a period commencing at start of the design stage and ending 24 months after a final version is completed. Such work includes the activities relating to the writing of the screenplay of the title, the development of its interactive structure, the acquisition and production of its component elements and its computer development. However, it does not include activities relating to the mastering of the title, copying its information media, its promotion, its access to communication networks or distribution.

A multimedia title is an organized set of digital information that, to qualify as an eligible multimedia title of a corporation, must satisfy the following conditions:

— it is produced by the corporation;

— it includes a significant volume of three of the following four types of information: text, sound, still images and animated images;

— it is published on an electronic medium and controlled by software that allows interactivity;

— it is not an excluded multimedia title.

The following titles are excluded multimedia titles:

— a title that is essentially either an interpersonal communication service, such as an electronic billboard, a discussion forum or a videoconference, or a transactional service, such as teleshopping, an electronic ticket service, a virtual shopping centre or an online payment system;

— a title intended to introduce a for-profit corporation, describe its activities or promote its products or services;

— a title that promotes violence, sexism or discrimination.

77 However, if a subcontractor is a corporation that holds a specialized corporation certificate, only the latter may claim the tax credit regarding its eligible labour expenditure relating to an eligible multimedia title.

Accordingly, for instance, a digital animation film taken on its own, i.e. where it is not part of a multimedia title, does not constitute an eligible multimedia title, in particular because it is not controlled by software that allows interactivity. However, a digital animation film that is part of an otherwise eligible multimedia title, for instance a video game, does not disqualify the multimedia title.[78]

Increasingly, multimedia title production corporations are turning to the production of other products such as digital animation films that, while they may be closely tied to the eligible multimedia titles produced by the corporation, are not included in them and have their own existence so much so that, because of advances in technology, the tools and processes used in the creation of video games and digital animation films are tending towards ever greater convergence.

However, depending on whether a corporation produces a multimedia title or a digital animation film not incorporated into a multimedia title, it must apply to Investissement Québec for an eligibility certificate with regard to the multimedia title in order to receive the tax credit for multimedia titles (general component) or the tax credit for specialized corporations, as the case may be, or apply to the Société de développement des entreprises culturelles (SODEC) for an eligibility certificate in relation to the film in order to receive the tax credit for Québec film and television production or the tax credit for film production services, as the case may be.

To enable a corporation to receive a refundable tax credit for the production of multimedia titles (general or specialized corporations component), in respect of all its activities, whether their ultimate purpose is the production of an eligible multimedia title or of certain goods that relate to such title, a new type of eligible title will be introduced, i.e. the eligible related title. To that end, the definitions of "specialized corporation certification", "eligible labour expenditure" and "eligible production work" will be broadened respectively to include the activities and production work necessary to make an eligible related title.[79]

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78 An eligible multimedia title includes a part of an eligible multimedia title, for example a digital animation film incorporated into a video game, carried out by a subcontractor on behalf of a producer that is not entitled to a tax credit (general component or specialized corporations component). The eligibility conditions must then be examined based on the multimedia title and not on the basis of the part of the title. The subcontractor that produced the part of the eligible multimedia title (the digital animation film) can claim a tax credit (general component or specialized corporations component) regarding the eligible labour expenditure in relation to such part of the title. Moreover, where the producer is entitled to a tax credit (general component or specialized corporations component), the eligible labour expenditure relating to the part of the title is included in the calculation of the eligible labour expenditure of the producer unless the subcontractor is a corporation that holds a specialized corporation certificate in which case the subcontractor alone can claim the tax credit regarding the eligible labour expenditure relating to the part of the title.

79 The definitions of "eligible related title", "specialized corporation certificate" and "eligible production work" will be stipulated in the framework legislation that will consolidate the non-tax parameters of certain fiscal measures and whose introduction was announced in *Information Bulletin 2007-10* of December 20, 2007, page 16. Moreover, concordance amendments will be made to the *Taxation Act*.

In addition, in order to reflect the new generations of titles available, the 24-month period following the completion of a final version currently stipulated for the eligibility of the production work of a multimedia title will be extended to 36 months. For the same reason, the activities relating to system architecture will become eligible for the purposes of calculating the eligible labour expenditure.

2.3.1 Addition of a new eligible title

Henceforth, besides eligible multimedia titles according to the existing rules, eligible related titles may give rise to the tax credit for multimedia titles (general component) or the tax credit for specialized corporations, as the case may be.

❑ Eligible related title

An eligible related title of a corporation means a property that satisfies the following conditions:

— it is produced by the corporation;

— it includes a significant volume of three of the following four types of information: text, sound, still images and animated images;

— it is related to a principal multimedia title;

— it is not an excluded multimedia title.[80]

■ Principal multimedia title

A principal multimedia title means a multimedia title that satisfies the following conditions:

— it is produced by the corporation that produces the related title or by a corporation with which it is associated[81] for the purposes of the *Taxation Act*;[82]

80 The existing rules described in note 78 that apply to eligible multimedia titles will also apply to eligible related titles.

81 For the purposes of this measure, a corporation that produces the related title is associated with another corporation if it is so throughout the period covering the production stages of such title that starts at the beginning of the design stage and ends on the date of completion of the final version.

82 R.S.Q., c. I-3.

— it would constitute, for the corporation that produces the related title or for the corporation with which it is associated, as the case may be, an eligible multimedia title for the purposes of the tax credit for multimedia titles (general component) or the tax credit for specialized corporations, as the case may be, if the corporation or the corporation with which it is associated claimed either of these tax credits;

— the total amount of the labour expenditure of the corporation that produces the related title or the corporation with which it is associated, as the case may be, regarding the multimedia title, is equal to or greater than $1 million.

The total amount of a corporation's labour expenditure regarding a multimedia title means the total amount that would be determined on account of the eligible labour expenditure regarding the title for the purposes of the tax credit for multimedia titles (general component) or the tax credit for specialized corporations, as the case may be, for the taxation years during which such expenditures were incurred and paid, if the corporation claimed either of these tax credits. However, such expenditures will be included in calculating the total amount of a corporation's labour expenditure regarding a multimedia title if they are incurred and paid no later than 12 months after the date of completion of the final version of the related title.

In addition, only the eligible labour expenditure that is tied exclusively to the eligible production work relating to the multimedia title will be taken into consideration in this calculation. For example, such an expenditure that is tied both on this account and on the related account will be excluded.

■ Related title tied to a principal multimedia title

A related title of a corporation is tied to a principal multimedia title where, in the opinion of Investissement Québec:

— the related title is tied to the intellectual property right or the licence that applies to the principal multimedia title; and

— such intellectual property right or such licence is held by the corporation or by a corporation with which it is associated.

■ Excluded related title

The following titles are excluded related titles:

— a title that is essentially either an interpersonal communication service, such as an electronic billboard, a discussion forum or a videoconference, or a transactional service, such as teleshopping, an electronic ticket service, a virtual shopping centre or an online payment system;

— a title intended to introduce a for-profit corporation, describe its activities or promote its products or services;

— a title that promotes violence, sexism or discrimination.

However, due to its very nature, a related title will not be considered as intended to introduce a for-profit corporation, describe its activities or promote its products or services, solely because it is intended to promote the principal multimedia title to which it is tied.

❑ Eligible production work

The existing rules regarding eligible production work relating to an eligible multimedia title will also apply to eligible related titles. Accordingly, such work means the work done to carry out the production stages of such property, during a period beginning at the start of the design stage of the property and ending 36 months after the date of completion of a final version of the property, such period including and excluding the same activities as those currently included and excluded in the case of an eligible multimedia title.[83]

In addition, because of the nature of certain eligible related titles that may be produced, eligible production work means, more specifically, work done in the course of eligible activities tied to the production of computer animation and special effects, i.e. activities that contribute directly to the creation of computer animation and special effects and the shooting of scenes in front of a chromatic screen, such as motion capture, correction of animation curves, rendering, image retouching, graphics, filming, computerized and automated animation benches, and use of motion control.

Moreover, the expression "computer animation and special effects" means special effects and animation sequences, as generally understood in the industry, created using digital technology, excluding strictly sound effects, sub-titles and animation sequences essentially created by means of editing techniques.

Lastly, the expression "shooting of scenes in front of a chromatic screen" means any shooting activity carried out in studio in front of a coloured screen, generally blue or green, allowing, by means of electronic wizardry, the incorporation of objects, images and special effects in the final image.

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83 Provided such activities can be part of the production process of an eligible related title. In addition, eligible production work will include activities relating to system architecture (see subsection 2.3.2).

❑ Specialized corporation certificate

For the purposes of the tax credit for specialized corporations, an eligible corporation, for a taxation year, must hold an eligibility certificate issued, for the year, by Investissement Québec.

Accordingly, the specialized corporation certificate issued henceforth to a corporation must certify that all or almost all the activities it carries out in the year in Québec consist in producing, for itself or on behalf of another person or parthership, eligible multimedia titles or eligible related titles, or both, and, if applicable, in carrying out scientific research and experimental development relating to such titles.

❑ Concordance amendments

Because of the addition of eligible related titles for the purposes of the tax credit for multimedia titles (general component) and the tax credit for specialized corporations, the *Taxation Act* will be amended to stipulate that the provisions relating to these tax credits henceforth will also apply to eligible related titles.

❑ Roles of Investissement Québec and Revenu Québec

To be entitled to tax assistance for an eligible related title, for a taxation year, an eligible corporation must obtain a certificate issued by Investissement Québec for the title, in the case of the tax credit for multimedia titles (general component), or for the corporation, in the case of the credit for specialized corporations, that it must attach to the form it must file for the year with its tax return.

Investissement Québec must consider, as part of its analysis of a certification application in relation to the tax credit for specialized corporations, in addition to eligible multimedia titles, the eligible related titles produced by the corporation, and indicate, on the certificate, the excluded multimedia titles and excluded related multimedia titles, if any.

Moreover, to establish the eligibility of a related title, the corporation must provide any document required by Investissement Québec showing that the total amount of the labour expenditure as estimated regarding the principal multimedia title to which it is tied is at least $1 million. However, the determination of the eligible labour expenditure will remain under the authority of Revenu Québec.

In the case where, in the opinion of Revenu Québec, the total amount of the labour expenditure regarding a principal multimedia title is less than $1 million, Investissement Québec must revoke the certificate previously issued to the corporation for the related title or for the corporation, as the case may be, if, in the latter case, the corporation no longer otherwise satisfies the eligibility criteria. If the corporation remains eligible despite that fact, Investissement Québec must make the required changes to the certificate.

To determine whether a related title of a corporation is tied to a principal multimedia title, the corporation must provide any document required by Investissement Québec showing that the property is tied to the intellectual property right or the licence that applies to the principal multimedia title and that such right or such licence, as the case may be, is held by the corporation or by a corporation with which it is associated.

Investissement Québec may consult Revenu Québec to determine whether, solely for the purposes of issuing the certificate, a corporation is a corporation associated with the eligible corporation. For greater clarity, only the information Investissement Québec needs for the purposes of such determination will be forwarded to it, in order to preserve the otherwise confidential nature of the information obtained by the Revenu Québec in the course of applying a tax law. However, such determination will come under the authority of Revenu Québec for the purposes of the attribution of the tax credit.

In the case where, in the opinion of Revenu Québec, a corporation is not associated with the eligible corporation and, as a result, a title is therefore not an eligible related title, Investissement Québec must revoke the certificate previously issued to the corporation for such title or for the corporation, if, in the latter case, the corporation no longer otherwise satisfies the eligibility criteria. If the corporation remains eligible despite that fact, Investissement Québec must make the required changes to the certificate.

❑ Application date

These changes will apply to a certification application filed with Investissement Québec after the day of the Budget Speech.

2.3.2 Broadening of eligible production work

The expression "eligible production work" relating to an eligible multimedia title means, both for the tax credit for multimedia titles (general component) and for the tax credit for specialized corporations, the work done to carry out the production stages of such title during a period that begins at the start of the design stage and ends 24 months after date of completion of a final version. Such work includes the activities relating to the writing of the screenplay of the title, the development of its interactive structure, the acquisition and production of its component elements and its computer development. However, it does not include activities relating to the mastering of the title, copying its information media, its promotion, its access to communication networks or distribution.

❑ Extension of the eligibility period and addition of an eligible activity

The 24-month period is designed to include certain production work that may prove necessary to fine-tune a title or ensure that it remains attractive, even after a final version is available.

The nature and forms of distribution of new-generation multimedia titles imply, in some cases, that improvement must be made to a multimedia title over a period longer than 24 months after the completion of its final version and, consequently, that activities not covered when the tax assistance for the production of multimedia titles was introduced then become essential to the operation of the title.

Accordingly, the period of 24 months will be extended to 36 months so that eligible production work will generally mean, both for the tax credit for multimedia titles (general component) and for the tax credit for specialized corporations, the work done to carry out the production stages of a multimedia title during a period that begins at the start of the design stage and ends 36 months after date of completion of the final version.

Moreover, under the existing rules, eligible production work does not include the activities relating to the distribution of a multimedia title. However, the functions carried out by a system architect, who comes into play at the distribution stage of a multimedia title, are inseparable from the proper operation of the title.

Consequently, eligible production work will henceforth include the activities relating to system architecture. In general, system architecture includes the design, installation and maintenance of a network and the servers necessary for the operation of a multimedia title as well as management of system security and data access.

These changes regarding the extension of the eligibility period and the addition of an eligible activity will also apply to eligible production work relating to an eligible related title.

❑ Application date

These changes will apply to a certification application filed with Investissement Québec after the day of the budget speech.

2.4 Improvements to the refundable tax credit for film dubbing

The refundable tax credit for film dubbing was introduced in 1997.[84] In general, the tax credit applies to the labour expenditures incurred by an eligible corporation that are attributable to eligible services provided in Québec for the dubbing of a film and corresponds to 30% of such expenditures. However, the labour expenditures giving rise to the tax credit may not exceed 40.5% of the consideration paid to the eligible corporation for carrying out the film dubbing contract. The tax assistance can accordingly reach 12.15% of such consideration. Moreover, there is no cap on the tax credit for film dubbing.

For an eligible production, eligible dubbing services mean the performances of the actors, adaptation, detection, calligraphy/grid/typing and stage management. For an eligible production that is a feature film intended for movie theatres, such services also include production of film titles and optical transfer.

Where one of these services is provided in Québec by an employee of the eligible corporation, the amount included in the calculation of the tax credit corresponds to the salaries paid to such employee in consideration for the service he thus provided in the course of the dubbing. Moreover, where one of these services is provided in Québec by a subcontractor, the amount included in the calculation of the tax credit corresponds to the portion of the consideration paid by the eligible corporation for the service thus provided to it and, in the case of the production of film titles and optical transfer, the portion of the consideration is deemed to be equal to 30% and 20% respectively of such portion of the consideration.

Since 2003, the year when most tax credits in the cultural field, including the tax credit for film dubbing, suffered a reduction of 12.5% of the amount of their assistance [85] the rate of the tax credit for film dubbing has not been raised, apart from an adjustment in 2009, for the sake of simplification, to the rate of the tax credit from 29.1667% to 30%.[86] The cap on the consideration paid for the execution of a film dubbing contract has not been raised since 1999.[87]

In 2009, at the request of the Minister of Culture, Communications and the Status of Women, an advisory forum consisting of the main players in the dubbing sector was formed to come up with options to develop the market and promote Québec's dubbing industry in foreign markets (Forum).[88]

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84 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 97-7*, December 18, 1997, p. 1.

85 MINISTÈRE DES FINANCES DU QUÉBEC, *2003-2004 Budget - Additional Information on the Fiscal Measures*, June 12, 2003, p. 87.

86 MINISTÈRE DES FINANCES DU QUÉBEC, *2009-2010 Budget - Additional Information on the Budgetary Measures*, March 19, 2009, p. A.32.

87 MINISTÈRE DES FINANCES DU QUÉBEC, *1999-2000 Budget - Additional Information on the Budgetary Measures*, March 9, 1999, Section 1, p. 65.

88 Forum sur le développement du marché du doublage au Québec.

Among the six task forces formed under the Forum, one was charged with studying the existing mechanisms of the tax credit for film dubbing and determining any improvements that could be made.

The group came up with recommendations covering in particular a raise in the rate of tax credit and of the cap on the consideration paid to execute a film dubbing contract, as well as the broadening of eligible dubbing services.

These recommendations were based on an increase in production costs and foreign competition, and on the observation that in view of the proliferation of forms of distribution of eligible productions and of advances in technology, some activities have become essential to the dubbing process but are not recognized for the purposes of the tax credit.

In accordance with the recommendations made in the course of the Forum, the rate of the tax credit and the cap on the consideration paid for the execution of a film dubbing contract will be raised. In addition, three new dubbing services will become eligible for the purposes of calculating the eligible expenditure.[89]

❑ Increase in the rate of the tax credit and the cap on consideration paid

The rate of the tax credit for film dubbing will rise from 30% to 35% and the cap on the consideration paid for the execution of a film dubbing contract, currently 40.5%, will be raised to 45%. Consequently, the tax assistance allowed may reach 15.75% of such consideration.

❑ Broadening of eligible dubbing services

Three new eligible dubbing services will be added for the purposes of calculating the eligible expenditure for film dubbing, provided they are provided in Québec.

More specifically, for eligible productions, the following two dubbing services will be eligible:

— the audition, i.e. the test session intended to establish the dubbing cast;

— the preparation of texts, i.e. the work relating to computer-assisted detection including the preparation and formatting of the original text according to the standards of the detection software used, preparation of markers, verification and correction of adapted texts.

89 Only the tax legislation will have to be amended to stipulate the improvements to the rate, the cap and eligible dubbing services.

Lastly, a new dubbing service will become eligible, for an eligible production other than a feature film intended for movie theatres. This service is the production of video titles[90] for a version in a language other than the original, i.e. the marking and adaptation of the text for sub-titles, preparation of the electronic title files, their computer graphic production and their incorporation in the video montage.

Accordingly, where any of these three new services is provided in Québec by an employee of the eligible corporation, the amount included in the calculation of the tax credit will correspond to the wages paid to such employee in consideration for the service he thus provided in the course of the dubbing. Moreover, where the service is provided in Québec by a subcontractor, the amount included in the calculation of the tax credit will correspond to the portion of the consideration paid by the eligible corporation for the service thus provided to it.

❑ Application date

These changes will apply to a production for which a final certification application is filed with the Société de développement des entreprises culturelles after the day of the Budget Speech.

2.5 New excluded amounts of assistance for the purposes of the refundable tax credit for Québec film and television production

In general, the amount of any government assistance and non-government assistance, other than an excluded amount of assistance, that a corporation received or is entitled to receive, must reduce the amount of eligible expenditures included in the calculation of the refundable tax credit for Québec film and television production.

The tax legislation will be amended so that an amount of financial assistance provided by the Fonds francophone d'aide au développement cinématographique[91] and an amount of financial assistance provided under the Mesure régionale d'aide au démarrage de productions cinématographiques et télévisuelles[92] constitute excluded amounts of assistance for the purposes of the tax credit for Québec film and television production.

This amendment will apply as of January 1, 2009.

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90 In this context, titles include subtitles, inter-titles, supers and credits and video includes any medium other than celluloid film.

91 This fund was set up by a variety of francophone partners including Québec and is managed by the Festival international du film francophone de Namur.

92 This measure receives funding from the Bureau de la Capitale-Nationale and the Entente de développement culturel between the Ville de Québec and the Ministère de la Culture, des Communications et de la Condition féminine.

2.6 Tax relief for non-residents occupying key positions in a foreign production filmed in Québec

For almost a decade, the tax system has granted tax relief to foreign workers acting as producer on certain film or television productions filmed in Québec. Under this tax relief, which is in the form of a deduction, foreign producers are not taxed on payments they receive for services supplied in Québec in conjunction with such productions.[93]

This measure is part of the government's efforts to encourage foreign producers to choose Québec as a location not only for filming their productions, but also for carrying out postproduction work. Those efforts over the years, together with Québec's enviable reputation as a centre for creating special effects for film, contribute to increasing the number of projects that can be carried out in Québec.

To encourage still more foreign productions to come to Québec, the legislation will be amended to allow individuals who sojourn in Québec and occupy a decision-making position on a foreign production, or a key position in the postproduction stage of such a production, to take advantage, as of the 2010 taxation year, of tax relief identical to that which is currently granted to foreign producers regarding payments received for services supplied in Québec.[94]

More specifically, to claim a deduction for a taxation year regarding payments for services supplied in Québec as part of a particular foreign production, individuals must meet the following conditions:

— they did not, in fact, reside in Canada at any time during the year;

— they hold a qualification certificate issued by the Société de développement des entreprises culturelles (SODEC) for the particular foreign production – that has not been revoked – certifying that they are acting as executive producer, director, artistic director, director of photography, music director, supervising editor or visual effects supervisor on the production;

— they enclose a copy of the certificate with their income tax return for the year.

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93 The deduction is taken into account in the calculation of the taxable income of a producer who is deemed to be resident in Québec because he or she sojourned in Québec for one or more periods totalling at least 183 days in the year for which the deduction is claimed. If the producer is not deemed to be resident in Québec, the deduction is taken into account in the calculation of the producer's income earned in Québec and in Canada, determined pursuant to Part II of the *Taxation Act*, R.S.Q. c. I-3.

94 The amendments will be found, as the case may be, in the tax legislation or in the framework legislation consolidating the non-tax parameters of certain fiscal measures and whose introduction was announced in *Information Bulletin 2007-10* of December 20, 2007, on p. 16.

For the purposes of this measure, a production[95] that is a qualified production for the purposes of the refundable tax credit for film production services will be considered a foreign production, as long as the position of producer was entrusted to an individual who, in fact, was not living in Canada.

In that regard, the term "producer" will have the same meaning as for the purposes of the deduction for foreign producers. Thus, an individual will be considered a producer if he or she is the person responsible for decision making with regard to the qualified production throughout the development of the related project and throughout production.

Moreover, no income tax will have to be deducted or withheld at source regarding any payment for services supplied in Québec that is made after the day of the budget speech to a foreign worker occupying a decision-making position or a key position in a foreign production, where the worker holds a valid qualification certificate issued by SODEC with respect to the production.

2.7 Changes to the refundable tax credit for R&D salaries

A taxpayer who carries on a business in Canada and does scientific research and experimental development (R&D) work in Québec, or who has such work done on his behalf in Québec, may be eligible for the refundable tax credit for R&D salaries.[96]

The refundable tax credit for R&D salaries essentially applies to the salaries an entrepreneur pays to his employees who carry out R&D work in Québec. It also applies, in the case of a research contract awarded to a subcontractor that is not at arm's length with the entrepreneur, to the salaries the subcontractor pays to its employees who carry out, in Québec, the R&D work stipulated in the research contract on behalf of the entrepreneur.

In the case of a research contract awarded to a subcontractor that is at arm's length with the entrepreneur, the tax credit applies to half the portion of the amount of the research contract that is reasonably attributable to the R&D work stipulated in the research contract that is carried out, in Québec, by the subcontractor's employees on behalf of the entrepreneur.

95 A motion picture film, a video tape or a set of episodes or broadcasts that are part of a series.

96 A taxpayer who is a member of a partnership that carries on a business in Canada and R&D work in Québec, or who has such work done on his behalf in Québec, may also be eligible for the refundable tax credit for R&D salaries.

The tax credit rate is 17.5%. However, an SME can benefit from a higher rate of 37.5%. Briefly, an SME is defined, for a fiscal year, as a Canadian-controlled corporation with assets of less than $75 million for its prior fiscal year, including the assets of corporations associated with it. However, the increased rate of 37.5% declines linearly where the assets of the corporation so calculated vary between $50 million and $75 million. Accordingly, where the corporation's assets are less than $50 million the rate is 37.5%, while it is 17.5% where the corporation's assets are equal to or greater than $75 million. This increase in the rate applies only to the first $3 million of R&D spending eligible for this tax credit.

2.7.1 Clinical trial

According to the tax legislation, R&D means systematic research of a technical or scientific nature by means of pure or applied research carried out for the advancement of science as well as experimental development carried out in the interest of technological progress with a view to the creation of new materials, products, systems or procedures, or the improvement, however slight, of existing ones. The collection of data and trials used to support R&D directly are also eligible.[97]

In this regard, businesses in the pharmaceutical industry use clinical trials in the course of developing new drugs or bioequivalence studies designed to compare the effects of one drug with those of a drug already on the market. In general, these tests imply the participation of volunteers (research subjects) to determine the pharmacological effects of a drug and provide evidence to establish, in particular, the harmlessness, efficacy and quality of the drug.

In short, to be an integral part of an R&D project, such clinical trials must be used to assess a hypothesis according to scientific objectives that aim to overcome scientific or technological uncertainties and contribute to the advancement of the scientific and medical knowledge of a drug.

❑ Participation of a research subject in a clinical trial

Generally, a research subject who participates in a clinical trial must submit to the requirements of the trial, such as the obligation to stop drinking or eating certain foods during a set period before the beginning of the clinical trial. In addition, the research subject may also have to agree to a period of confinement during which he absorbs a drug and consents to blood and urine samples being taken to analyze the distribution of the drug in his body. The research subject sometimes receives an indemnity in consideration of his participation in a clinical trial.

97 *Taxation Act*, L.R.Q., c. I-3, sec. 222, ss. 2 and 3.

The participation of a research subject in a clinical trial is an important component in the achievement of the objectives of the clinical trial, even though he is not the one carrying out the analyses and work required to conduct the clinical trial.

In this context, the tax legislation will be amended so that a research subject who participates in a clinical trial carried out by another person in accordance with the standards set by the *Food and Drug Regulations*[98] adopted under the *Food and Drugs Act*[99] is deemed to carry out work, for the purposes of the refundable tax credit for R&D salaries.

For greater clarity, no amendment will be made to the tax legislation concerning the qualification of an eligible R&D activity. Accordingly, Revenu Québec will continue to determine whether the participation of a research subject in a clinical trial is an integral part of the systematic investigation of a problem or if it is necessary to find a theoretical or practical solution of an R&D project.

This amendment will apply regarding an expenditure incurred by a taxpayer for a taxation year for which the Minister of Revenue may, the day of the Budget Speech, determine or determine once again the refundable tax credit for R&D salaries, for such year, and make an assessment or a new assessment or establish a supplementary assessment in relation to such tax credit.

❑ Standardization of the tax treatment of the indemnity paid to a research subject for the purposes of the refundable tax credit for R&D salaries

According to the tax legislation, where a taxable supplier pays an amount to a subcontractor to carry out work on behalf of the taxable supplier, the latter, not the subcontractor, is entitled to the refundable tax credit for R&D salaries in relation to such amount. A taxable supplier is defined as, in particular, a person who resides in Canada.[100] Accordingly, in the situation where a Canadian corporation in the pharmaceutical industry pays an amount to a subcontractor to carry out, in Québec, a clinical trial on behalf of such corporation, the latter, not the subcontractor that carries out the clinical trial in Québec, would be entitled to the refundable tax credit for R&D salaries in relation to such amount.[101]

98 C.R.C., c. 870.

99 R.S.C. 1985, c. F-27.

100 *Taxation Act*, sec. 1029.8.17, par. b.1).

101 Ibid., sec. 1029.8.18.

In addition, where the taxable supplier is at arm's length with the subcontractor, the refundable tax credit for R&D salaries essentially applies to half the amount paid to the subcontractor.[102] In such a situation, the first-level subcontractor that is at arm's length with the taxable supplier cannot delegate the work that was awarded to it by the taxable supplier to a second subcontracting level.[103]

Depending on the circumstances, it can happen that a research subject who participates in a clinical trial that a person carries out on behalf of a Canadian corporation in the pharmaceutical industry is not an employee of such person, but rather acts under a business or service contract entered into with the person who carries out the clinical trial. Such contract between the research subject and the person who carries out the clinical trial on behalf of a Canadian corporation in the pharmaceutical industry therefore constitutes a second level of subcontracting.

Consequently, the refundable tax credit for R&D salaries to which the Canadian corporation in the pharmaceutical industry may be entitled, in relation to the clinical trial carried out by a subcontractor with which it is at arm's length, may not apply to the amount of the indemnity paid to the research subject because it would involve a second-level subcontract. In this case, this tax credit would apply to only half the excess of the amount of the subcontract paid to the first subcontractor over the amount of the indemnity paid to the research subject acting as second subcontractor.

On the contrary, if the research subject were an employee of the first subcontractor, the indemnity paid to him would be included in the calculation of the refundable tax credit for R&D salaries to which the Canadian corporation in the pharmaceutical industry could be entitled in relation to such clinical trial, whether or not such corporation and the first subcontractor that carries out the clinical trial on its behalf are at arm's length.[104]

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102 Ibid., sec. 1029.7, par. 1, sub-par. c) and e).

103 The same rule applies in situations where a first-level subcontractor – that is not at arm's length with the taxable supplier – is allowed to delegate to a second-level subcontractor all or part of the work stipulated in the first subcontract. In this situation, the refundable tax credit for R&D salaries, in relation to the work delegated to a second subcontractor that is at arm's length with the taxpayer who initially awards the execution of the work to the first subcontractor, essentially applies to half the amount paid to the second subcontractor, which may not in turn delegate to a third subcontracting level the work delegated to him by the first subcontractor. See subparagraphs g) and i) of the first paragraph of section 1029.7 of the *Taxation Act*.

104 However, the refundable tax credit for R&D salaries would be calculated differently depending on whether or not the Canadian corporation in the pharmaceutical industry and the first subcontractor are at arm's length. See subparagraphs b), c), d) and e) of the first paragraph of section 1029.7 of the *Taxation Act*.

Similarly, if the Canadian corporation in the pharmaceutical industry was not at arm's length with the person to whom it awards the carrying out of the clinical trial, but the research subject was not an employee of such person, the indemnity paid to him would nonetheless be included in the calculation of the refundable tax credit for R&D salaries to which the Canadian corporation in the pharmaceutical industry could be entitled in relation to such clinical trial, since second-level subcontracting would be allowed in this situation.[105]

Lastly, if the Canadian corporation in the pharmaceutical industry was not at arm's length with the person to whom it awards the carrying out of the clinical trial, and the latter delegates all or part of the carrying out of such clinical trial to a second subcontractor who has a research subject who is its employee participate in such clinical trial, the indemnity paid to the latter would be included for the purposes of the refundable tax credit for R&D salaries to which such business could be entitled in relation to such clinical trial.[106]

In this context, the tax legislation will be amended to standardize the tax treatment of the indemnity paid to a research subject for the purposes of the refundable tax credit for R&D salaries.

More specifically, for the purposes of the refundable tax credit for R&D salaries, where a taxpayer is at arm's length with the person to whom it awards the carrying out of a clinical trial that is done in accordance with the standards set out in the *Food and Drug Regulations* adopted under the *Food and Drugs Act*, or where a taxpayer is not at arm's length with the person to whom it awards the carrying out of such a clinical trial but is at arm's length with a second subcontractor to which such person awards the carrying out of all or part of the clinical trial, the tax legislation will be amended so that the portion of the consideration paid to the first or the second subcontractor, as the case may be, that is reasonably attributable to R&D work or to work relating to an R&D project, is not reduced by the amount of the indemnity paid to a research subject who participates in the clinical trial and is not an employee of the first or the second subcontractor, as the case may be.

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105 The refundable tax credit for R&D salaries would be calculated differently depending on the arm's length relationship that may or may not exist between the Canadian corporation in the pharmaceutical industry and the research subject acting as second subcontractor. See subparagraphs *f*), *g*), *h*) and *i*) of the first paragraph of section 1029.7 of the *Taxation Act*.

106 *Taxation Act*, sec. 1029.7, par. 1, subpar. *f*), *g*), *h*) and *i*).

This amendment will apply regarding an expenditure incurred by a taxpayer for a taxation year for which the Minister of Revenue may, the day of the Budget Speech, determine or determine once again the refundable tax credit for R&D salaries, for such year, and make an assessment or a new assessment or establish a supplementary assessment in relation to such tax credit.

❑ Non-taxation of the indemnity paid to a research subject

A research subject plays an important role in achieving the objectives of a clinical trial in which he participates by allowing his body to be used for experimental purposes. In this regard, he may receive an indemnity, which is set according to a rigorous process that takes into account the inconveniences involved in his participation in the clinical trial. Such indemnity is taxable.

To recognize the importance of a research subject's participation in a clinical trial as well as the social character of such a commitment, the tax legislation will be amended so that the income, for a taxation year, from indemnities paid to a research subject who participates in clinical trials carried out by another person in accordance with the standards set by the *Food and Drug Regulations* adopted under the *Food and Drugs Act*, is not taxable up to a limit of $1 500 for such year.

This amendment will apply as of taxation year 2010.

2.7.2 Arm's length subcontracting

The objectives of the refundable tax credit for R&D salaries are job creation and the carrying out of R&D activities in Québec. Consequently, it is structured so that the tax assistance allowed a taxpayer is conditional on compliance with these objectives.

Accordingly, a taxpayer who carries out R&D work or has such work carried out on his behalf must take all appropriate measures to ensure that such work is carried out in Québec by its own employees or by the employees of a subcontractor, as the case may be. Originally, this tax credit only applied to the salaries paid to the employees of the taxpayer or to the employees of a subcontractor that carried out work on his behalf.

However, for reasons of simplicity, the calculation method of the refundable tax credit for R&D salaries was changed in relation to the situation where the taxpayer and the subcontractor to whom he awards the carrying out of the work are at arm's length. In this case, the refundable tax credit for R&D salaries applies henceforth to half the portion of the consideration paid to the subcontractor that is reasonably attributable to R&D work or to work relating to an R&D project, as the case may be, carried out in Québec by the employees of the subcontractor on behalf of the taxpayer.

This calculation method is based on the premise whereby the labour expenditure generally corresponds to 50% of the amount of such a subcontract. Accordingly, because of the distance between the taxpayer and a subcontractor with which he is at arm's length, it is simpler to use this calculation method rather than requiring that the subcontractor provide the taxpayer with information concerning the salaries it pays to its employees.

In some situations, where a taxpayer awards the carrying out of work to a corporation or a partnership with which he is at arm's length, it can happen that the work carried out on behalf of the taxpayer is done by a person who is a shareholder of the corporation or a member of the partnership, as the case may be.

This situation does not pose a problem if the shareholder or the member is also an employee of the corporation or the partnership, as the case may be. The salaries paid to the employees of the subcontractor may be less than or greater than 50% of the amount of the subcontract. The important thing is that the work done on behalf of the taxpayer be done by employees of the subcontractor, regardless of the amount of their salaries.

Inversely, this situation raises problems if the shareholder or the member is not an employee of the corporation or the partnership, as the case may be, since the situation is one of second-level subcontracting and, as mentioned above, a subcontractor that is at arm's length with the taxpayer may not delegate to a second subcontractor the carrying out of all or part of the work awarded to it by the taxpayer.[107]

Accordingly, where the taxpayer is at arm's length with a subcontractor, although it is incumbent on him to ensure that the work he awards to the subcontractor is carried out in Québec by persons who are employees of the subcontractor, it may be difficult for him to know the status of such persons with the subcontractor as well as the information concerning the salaries paid to them, unlike the situation in which the taxpayer is not at arm's length with a subcontractor because, in the latter case, the non-arm's-length relationship between the taxpayer and the subcontractor presupposes that communication of the financial information concerning the salaries paid to employees of the subcontractor is facilitated.

In this context, the refundable tax credit for R&D salaries will be streamlined in relation to the situation where work is done on behalf of a taxpayer by a corporation or a partnership with which it is at arm's length, so that the work done by a person who is not an employee of the corporation or the partnership, but is one of its shareholders or members, as the case may be, be also included for the purposes of the tax credit.

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107 The same rule applies in situations where a level one subcontractor – that is not at arm's length with the taxpayer – is allowed to delegate all or part of the work stipulated in the first subcontract to a level two subcontractor that is at arm's length with the taxpayer. See note 103.

More specifically, the tax legislation will be amended so that, for a taxation year, the refundable tax credit for R&D salaries also applies to the half of the portion of the consideration that is, first, paid by a taxpayer to a corporation or a partnership with which it is at arm's length, or that is paid by a first-level subcontractor – that entered into a subcontract with the taxpayer and that is not at arm's length with him – to a corporation or a partnership that is at arm's length with the taxpayer, and that is, second, reasonably attributable to R&D work or work relating to an R&D project carried out in such year on behalf of the taxpayer, in Québec, by an indivjdual (other than a trust) who is a shareholder of such corporation or a member of such partnership.

This amendment will apply regarding an expenditure incurred by a taxpayer for a taxation year for which the Minister of Revenue may, the day of the Budget Speech, determine or determine once again the refundable tax credit for R&D salaries, for such year, and make an assessment or a new assessment or establish a supplementary assessment in relation to such tax credit.

2.8 Clarification in relation to the tax credit for technology adaptation services and the tax credits for R&D

The refundable tax credit for technology adaptation services is designed to support businesses in gathering and processing strategic information and in their research cooperation and innovation initiatives. This tax credit applies to certain expenditures incurred with an eligible liaison and transfer centre or an eligible college technology transfer centre, as the case may be.

These expenditures include 80% of the fees relating to eligible liaison and transfer services provided by such centres and the amount of fees for participating in training and information activities relating to eligible liaison and transfer services these centres offer. The tax credit rate is 50%.

In addition, the refundable tax credits for R&D apply, in particular, to R&D activities carried out by a subcontractor under a research contract.

Briefly, an initial refundable tax credit, the tax credit for R&D salaries, applies, in particular, to half the amount of the research contract in relation to R&D work that a taxpayer awards to a subcontractor with which it is at arm's length. The base rate of this tax credit is 17.5%, but it can range from 17.5% to 37.5% in the case of a Canadian-controlled corporation that is an SME.[108]

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108 An SME can benefit, for a taxation year, from this change in rate where it is a Canadian-controlled corporation whose assets, including the assets of associated corporations calculated on a world basis, are less than $75 million for the preceding taxation year. More specifically, where such assets are less than $50 million, the rate is 37.5%, reducing linearly to 17.5% where assets rise from $50 million to $75 million. The higher rate applies solely to the first $3 million of R&D spending.

A second refundable tax credit, the tax credit for university R&D, applies, in particular, to 80% of the amount of the research contract in relation to R&D work that a taxpayer subcontracts to an eligible university entity, an eligible public research centre or an eligible research consortium to which it is not related. The tax credit rate is 35%.

A third refundable tax credit, the tax credit for R&D carried out in private partnership, concerns research carried out in private partnership by a number of persons who agree to carry out in Québec or to have carried out for their benefit in Québec R&D work under a partnership agreement. This tax credit applies, in particular, to 80% of the amount of a research contract that a taxpayer who is a partner in the agreement awards to a subcontractor with which he is at arm's length. The tax credit rate is 35%.

These three refundable tax credits for R&D are collectively called hereunder the refundable tax credits for R&D.

The tax legislation will be clarified so that an expenditure incurred by a taxpayer for a taxation year is not eligible for the purposes of the refundable tax credit for technology adaptation services for such year, if it is otherwise eligible for the purposes of one of the refundable tax credits for R&D.

This clarification will apply in regard to an expenditure incurred after the day of the Budget Speech.

2.9 Extension of the scope of the easing regarding the twelve-month period for filing documents applicable to the refundable tax credits for R&D

Under the tax legislation, a taxpayer must file a prescribed form containing prescribed information in relation to the expenditures it incurs for a taxation year and that give rise to a refundable tax credit pertaining to businesses no later than twelve months following the filing deadline applicable to him for the year.

However, this general rule stipulates a degree of easing concerning the claim for a refundable tax credit for R&D. Under the existing tax legislation, the fact that a taxpayer has already filed, for a taxation year, the prescribed form containing the prescribed information relating to eligible expenditures for the purposes of a tax credit for R&D, no later than twelve months after the filing deadline applicable to him for the year, allows such taxpayer to claim, after such twelve-month period, a different tax credit for R&D in relation to such expenditures to replace the first tax credit for R&D that he claimed.[109]

109 This change in the first tax credit for R&D can only be made within the deadlines otherwise stipulated for determining this tax credit once again. See sections 1005, 1007 and 1010 of the *Taxation Act*.

This easing does not apply to other refundable tax credits. In some situations, the expenditures incurred by a taxpayer for a taxation year may have been reported by the taxpayer within the twelve-month period in relation to a refundable tax credit he claimed but that was subsequently amended by Revenu Québec for the reason, for example, that such expenditures were not eligible for the purposes of the tax credit the taxpayer claimed. In such a case, since the taxpayer did not file a prescribed form containing the prescribed information in relation to such expenditures within the twelve-month period for the purposes of another refundable tax credit, such taxpayer could not claim such other tax credit in relation to such expenditures.

❑ Extension of the scope of the easing to all refundable tax credits pertaining to businesses

The tax legislation will be amended so that the scope of the easing stipulated for the purposes of the tax credits for R&D is extended to all the refundable tax credits pertaining to businesses.

More specifically, the tax legislation will be amended so that an expenditure incurred by a taxpayer for a taxation year regarding which the taxpayer filed a prescribed form containing the prescribed information for the purposes of a refundable tax credit no later than twelve months after the filing deadline applicable to him for the year, can be reported by the taxpayer for such taxation year on a prescribed form containing the prescribed information filed by the taxpayer, after such twelve-month period, for the purposes of another refundable tax credit he claims and that seeks to replace the one he initially claimed.

This amendment will apply to a claim or a new claim in relation to a refundable tax credit made after the day of the Budget Speech.

❑ Concordance amendments

The tax legislation stipulates special rules in relation to R&D expenditures that a taxpayer incurs for a taxation year. Briefly, an expenditure can only be deducted on account of an R&D expenditure in the calculation of income for a taxation year of a taxpayer if the latter reports it using a prescribed form containing the prescribed information no later than twelve months following the filing deadline applicable to him for such year. Moreover, a taxpayer can only receive the refundable tax credit commonly known as the tax credit for university R&D if he obtains a favourable advance ruling from Revenu Québec in relation to the research contract he entered into with an eligible public research centre, an eligible university entity or an eligible research consortium.

In this context, two concordance amendments will be made to the tax legislation to give full effect to the extension of the scope of the easing of the twelve-month period for filing a prescribed form containing the prescribed information applicable to the refundable tax credits for R&D

- **Concerning the deductible R&D expenditure in the calculation of income**

The first concordance amendment concerns the obligation to report, on a prescribed form containing the prescribed information, an R&D expenditure incurred for a taxation year for the purposes of the calculation of income for such year no later than twelve months following the filing deadline applicable for such year.

More specifically, the tax legislation will be amended so that an expenditure incurred by a taxpayer for a taxation year and that he reported on a prescribed form containing the prescribed information for the purposes of a refundable tax credit, other than a refundable tax credit for R&D, no later than twelve months after the filing deadline applicable to him for the year, can be reported by the taxpayer on account of an R&D expenditure on a prescribed form containing the prescribed information for such taxation year, after such twelve-month period, for the purposes of the calculation of income of such year.

- **Concerning the obligation to obtain a favourable advance ruling from Revenu Québec**

The second concordance amendment concerns the obligation to obtain a favourable advance ruling from Revenu Québec to claim the refundable tax credit for university R&D.

More specifically, the tax legislation will be amended so that a taxpayer who reported on a prescribed form containing the prescribed information, no later than twelve months after the filing deadline applicable to him for a taxation year, expenditures he incurred in such year for the purposes of a refundable tax credit, other than a refundable tax credit for R&D, can apply to the Minister of Revenue for an advance ruling for the purposes of the refundable tax credit for university R&D, despite the fact that more than three years have elapsed since the day when the research contract regarding which the application for an advance ruling is filed was entered into, and if the Minister considers that the reasons given by the taxpayer justify the admissibility of the application.

■ Application date

These concordance amendments will apply to the filing of a prescribed form containing the prescribed information in relation to an expenditure on account of R&D spending or to an application for an advance ruling, as the case may be, made after the day of the Budget Speech.

❑ Clarification applicable to all the amendments

For greater clarity, these three amendments do not change the discretionary power of Revenu Québec to determine once again the tax or a refundable tax credit for a taxation year within the deadlines stipulated in the tax legislation.

In general, the easing of the twelve-month period in relation to the filing of a prescribed form containing the prescribed information for the purposes of refundable tax credits, as well as the concordance amendment concerning the filing of a prescribed form containing the prescribed information in relation to an expenditure reported on account of R&D spending in the calculation of income for a taxation year, allow a taxpayer to replace his initial election of a refundable tax credit where such election is subsequently modified by Revenu Québec.

In this regard, it is up to the Minister of Revenue to consider the prescribed form containing the prescribed information filed by a taxpayer, after the twelve-month period ending after the filing deadline applicable to him for a taxation year, in relation to an expenditure that the taxpayer wishes to report on account of R&D spending in the calculation of his income for such year, in the application of the Minister of Revenue's discretionary power to modify, if applicable, the determination of the tax payable by the taxpayer for such year where such tax has already been determined by the Minister.

Moreover, in the situation where a taxpayer wishes to amend on his own initiative his initial election of a refundable tax credit, it is up to Revenu Québec to consider such application in exercising its discretionary power to modify the determination of such initial refundable tax credit and, if applicable, to determine another refundable tax credit for such taxation year in place of the one initially claimed by the taxpayer.

2.10 Adjustment to the refundable tax credit for the development of e-business for activities transfer and business start-up situations

A refundable tax credit for the development of e-business in information technologies was introduced in the March 13, 2008 Budget Speech.[110] Adjustments to this measure were subsequently announced on May 15, 2008,[111] and in the March 19, 2009 Budget Speech.[112]

Briefly, this tax credit, whose rate is 30%, is granted to a qualified corporation regarding the salaries paid to eligible employees to carry out eligible activities. The qualified wages, for an eligible employee, may not exceed $66 667 for a year, so that the maximum tax credit that may be obtained per employee per year is $20 000.

Essentially, this tax measure was implemented to consolidate the development of the information technology sector throughout Québec.

Follow-up on this tax credit since its introduction has pointed to the need to make adjustments to some eligibility criteria to better reflect its objective.

Accordingly, changes will be made to the refundable tax credit for the development of e-business to facilitate the qualification of certain corporations operating in the information technology sector in activities transfer and business start-up situations. An adjustment will also be made to the notion of non-arm's-length relationship for the purposes of the criterion relating to services supplied.

❑ Review of qualification criteria of a corporation

According to the current terms and conditions, to receive the tax credit for the development of e-business, a corporation must, in particular, obtain, each year, a qualification certificate from Investissement Québec confirming, among other things, compliance with a criterion regarding the minimum number of eligible employees, two criteria regarding the proportions of activities carried out by the corporation and a criterion regarding the proportion of services supplied.

110 MINISTÈRE DES FINANCES DU QUÉBEC, *2008-2009 Budget - Additional Information on the Budgetary Measures*, March 13, 2008, p. A.79.

111 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2008-4*, May 15, 2008.

112 MINISTÈRE DES FINANCES DU QUÉBEC, *2009-2010 Budget - Additional Information on the Budgetary Measures*, March 19, 2009, p. A.40.

- **Criterion relating to the minimum number of eligible employees of the corporation**

A criterion regarding the minimum number of eligible employees must be satisfied for a corporation to obtain, each year, a qualification certificate from Investissement Québec. More specifically, such qualification certificate confirms that the eligible activities of the corporation required, at all times, a minimum of six eligible full-time employees.

In this regard, the expression "eligible employee" of a qualified corporation, for a taxation year, means an employee, other than a specified shareholder of the eligible corporation, of an establishment in Québec of the qualified corporation for which Investissement Québec has issued, for such year, an eligibility certificate certifying that the following conditions have been satisfied:

— he held a full-time job involving at least 26 hours of work a week, for an expected minimum period of 40 weeks;[113]

— at least 75% of his duties consisted in carrying out, supervising or directly supporting the work relating to the execution of an eligible activity by the eligible corporation.

Moreover, administrative duties such as management of operations, accounting, finances, legal affairs, public relations, communications, seeking mandates as well as human and physical resources management are not considered duties relating to the execution of an eligible activity.

For greater clarity, Investissement Québec may issue an eligibility certificate for part of a taxation year of a qualified corporation, in which case the eligibility certificate must indicate the eligibility period of the employee.

As mentioned earlier, to be eligible for the tax credit for a taxation year, a corporation must undertake to employ a minimum of six eligible employees at all times. Accordingly, assuming a corporation fails to satisfy this undertaking, for a taxation year, no eligibility certificate will be issued regarding the corporation's eligible employees for such taxation year. However, Investissement Québec may issue eligibility certificates where the qualified corporation is in a position to demonstrate, to the satisfaction of Investissement Québec, that the failure to honour such undertaking is attributable to exceptional circumstances beyond its control, such as the departure of employees and the impossibility to fill these positions concomitantly. However, such employees must be replaced within a reasonable time, taking the availability of qualified manpower into account.

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113 In particular, this last requirement results in the exclusion of a seasonal job, such as a student summer job.

- **Criteria relating to the proportions of activities carried out by the corporation**

A corporation must satisfy two criteria regarding the proportions of activities it carries out to obtain, each year, a qualification certificate from Investissement Québec.

More specifically, such qualification certificate confirms compliance with the following two criteria regarding the proportions of activities carried out by the corporation for a taxation year:

— at least 75% of the corporation's activities, for the taxation year, were activities in the information technology sector. In this regard, activities in the information technology sector mean the activities grouped under the following seven codes of the North American Industry Classification System (NAICS codes):[114]

  – 334110 Computer and Peripheral Equipment Manufacturing;

  – 334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing;

  – 417310 Computer, Computer Peripheral and Pre-Packaged Software Wholesaler-Distributors;

  – 443120 Computer and Software Stores;

  – 511210 Software Publishers;

  – 51821 Data Processing, Hosting and Related Services;

  – 541510 Computer Systems Design and Related Services;

— at least 50% of the corporation's activities, for the taxation year, are activities grouped under the following two NAICS codes:

  – 511210 Software Publishers;

  – 541510 Computer Systems Design and Related Services.

All these NAICS codes cover establishments whose chief activity consists in carrying out certain specific activities. The notion of an establishment whose chief activity consists in carrying out certain specific activities was not adopted to determine whether at least 75% or 50% of a corporation's activities constituted activities in the fields concerned.

114 The description of the NAICS codes is available on the Statistics Canada website: www.statcan.gc.ca/subjects-sujets/standard-norme/naics-scian/2007/list-liste-eng.htm, (consulted March 24, 2010).

Indeed, the corporation's gross revenue is the criterion taken into consideration to make such a determination.

Accordingly, a corporation is considered to have carried out at least 75% of its activities in the information technology sector (i.e. in one of the seven NAICS codes indicated above or in a combination of them) where the gross revenue from such activities accounts for 75% or more of its total gross revenue, in relation either to the taxation year preceding the one covered by the application for an eligibility certificate, or to the taxation year covered by such an application.

Similarly, a corporation is considered to have carried out at least 50% of its activities in activities grouped under NAICS codes 511210 and 541510 or a combination of these activities where the gross revenue from such activities accounts for 50% or more of its total gross revenue, in relation either to the taxation year preceding the one covered by the application for an eligibility certificate, or the taxation year covered by such an application.

However, the two criteria, i.e. the one regarding 75% based on the seven NAICS codes and the one regarding 50% based on only two NAICS codes, must be satisfied in the same taxation year.

Moreover, for the purposes of these two criteria, in the case where the taxation year preceding the one covered by the application for an eligibility certificate has fewer than 183 days, the gross revenue considered is that of the last taxation year prior to such taxation year that had more than 182 days.

■ Criterion relating to services supplied

A corporation must, to qualify as a qualified corporation, satisfy a criterion regarding services supplied. A corporation satisfies this criterion where at least 75% of its activities included under NAICS code 541510 (Computer Systems Design and Related Services) consist:

— either of services ultimately supplied to a person[115] with whom it is at arm's length;[116]

— or services relating to applications developed by the corporation that will be used exclusively outside Québec;

— or a combination of the above two items.

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115 For the purposes of this rule, a person includes a partnership.

116 The expression "services ultimately supplied to a person" does not target services supplied to the ultimate consumer of the goods and services supplied by such person, but rather the services supplied, directly or indirectly, to the businesses or organizations that are the direct users of the applications developed by the corporation.

In this regard, services supplied by a corporation to the members of a cooperative or a federation of cooperatives are considered services supplied to a person with whom it is not at arm's length where the corporation that supplies the services is not at arm's length with the cooperative or the federation of cooperatives.

Moreover, the gross revenue derived from activities included under NAICS code 541510 is the criterion considered to determine whether at least 75% of the activities carried out by a corporation in this type of activities consist of services ultimately supplied to persons with which it is at arm's length, of services relating to applications developed by the corporation that will be used exclusively outside Québec, or a combination of these two items.

Accordingly, a corporation satisfies the criterion relating to service supplied where its gross revenue derived from activities included under NAICS code 541510, attributable either to services supplied to person with whom it is at arm's length, or to services relating to applications used exclusively outside Québec, or to a combination of these two items, represents 75% or more of the gross revenue derived from its activities included under NAICS code 541510, in relation to the taxation year covered by the application for an eligibility certificate.

❑ Adjustments to the qualification criteria of a corporation to transfers of activities and business start-up situations in Québec

Under existing rules, for a corporation to qualify as a qualified corporation regarding a taxation year, the criterion relating to the minimum number of eligible employees of the corporation must, apart from exceptional circumstances outside the corporation's control, be satisfied at all times during such taxation year. In addition, the two criteria relating to the proportions of activities carried out by the corporation and that relating to services supplied are currently determined on the basis of its gross revenue for an entire taxation year.

These requirements may prove too constraining in the case of transfers of activities or business start-ups in Québec, particularly regarding the criterion relating to the minimum number of eligible employees.

Indeed, it can sometimes prove more difficult for a start-up company to satisfy this criterion from the beginning of the first year in which it carries out eligible activities. Similarly, in a case of transfer of activities, both the originator and the recipient of the transfer generally will not be able to qualify as an eligible corporation for their taxation year during which the transfer takes place.

In this context, adjustments will be made to these requirements to better adapt them to transfers of activities and business start-up situations in Québec. In this regard, a corporation may qualify as a qualified corporation only for a portion of a taxation year.

■ Transfer of activities

Regarding the transfer of activities, the qualification of a corporation as a qualified corporation for the taxation year during which a transfer of activities is carried out may be made for each of the two parts of the taxation year, i.e. the part of such taxation year preceding the transfer and the part of such taxation year following the transfer. In addition, for a corporation to benefit from these adjustments regarding a transfer of activities, the transferred activities must be of a scope such that they require, at the time of the transfer, a minimum of six eligible full-time employees.

More specifically, for the taxation year during which a transfer of activities takes place, the qualification as an eligible corporation of a corporation involved in such a transfer of activities, for the part of the taxation year preceding such transfer, may be decided solely depending on that part of the taxation year. Accordingly, a corporation may qualify as an eligible corporation regarding such part of a taxation year if the eligible activities of the corporation required, at all times during that part of the taxation year, a minimum of six eligible full-time employees. In addition, the corporation must satisfy the two criteria relating to the proportions of activities it carried out and that relating to services supplied, in relation to that part of a taxation year.

The qualification of such a corporation for the other part of the taxation year, i.e. the one following the transfer, may be decided according to the same rules, i.e. depending solely on such other part of the taxation year.

Moreover, the adjustments relating to the transfer of activities will have no effect for a corporation involved in a transfer of activities that can qualify as an eligible corporation for the entire taxation year during which it carries out a transfer of activities according to the rules otherwise applicable. In other words, the effect of the adjustments relating to a transfer of activities cannot be to disqualify a corporation for part of a taxation year if it otherwise satisfies the qualification criteria for its taxation year taken as a whole.

As an example, a corporation whose taxation year corresponds to the calendar year is involved in a transfer of activities that causes the number of its eligible employees to decline from 55 to 10 on September 1, 2009 and, despite the reduction in the level of its eligible activities as of September 1, 2009, this corporation satisfies all the qualification criteria where they are applied to its entire 2009 taxation year. In such a case, the corporation may qualify as a qualified corporation for its entire 2009 taxation year, even if, for example, it does not satisfy the criteria relating to the proportions of activities carried out by the corporation where such criteria are applied only to the period following the transfer, i.e. the period from September 1, 2009 to December 31, 2009.

For greater clarity, for the purposes of these rules, a transfer of activities includes a transfer resulting from the winding-up of a corporation. In addition, the qualification of the originator of a transfer of activities or of the recipient of such transfer will be decided irregardless of the fact that the other party was qualified or will qualify as an eligible corporation.

For example, even if the originator of a transfer of activities could not qualify as an eligible corporation because the transferred activities were not carried out in Québec before the transfer, or because the originator of the transfer did not satisfy the criteria relating to the proportions of activities carried out, the corporation benefiting from the transfer of eligible activities may qualify as a qualified corporation for the part of its taxation year that follows the transfer if it satisfies all the qualification criteria for that part of its taxation year.

■ Business start-ups in Québec

Concerning the specific case of starting up a business in Québec, a corporation may qualify as a qualified corporation regarding the part of a taxation year that finishes at the end of such taxation year and starts the day when the corporation's eligible activities required, at all times during that part of the taxation year, a minimum of six eligible full-time employees. In addition, the corporation must satisfy the two criteria relating to the proportions of activities it carried out and that relating to services supplied, in relation to that part of a taxation year.

■ Rules applicable both to a transfer of activities and a business start-up

For a corporation to qualify as a qualified corporation for a taxation year, the two criteria relating to the proportions of activities carried out by the corporation must be satisfied either for such taxation year, or for the taxation year preceding that taxation year. Moreover, a taxation year that has fewer than 183 days does not allow a corporation to satisfy the two criteria relating to the proportions of activities carried out by the corporation for a later taxation year.

Accordingly, in the case where part of a taxation year for which a corporation will qualify as an eligible corporation is shorter than 183 days, such taxation year will not enable a corporation to satisfy the two criteria relating to the proportions of activities carried out by the corporation for a later taxation year, even if such prior taxation year has more than 182 days.

For greater clarity, in such a case, the eligibility certificates issued by Investissement Québec to an eligible corporation regarding its eligible employees may not cover the part of the taxation year when the corporation does not qualify as a qualified corporation.

Moreover, the adjustments applicable to the start-up of a business in Québec, those applicable to transfers of activities, as well as the rule allowing Investissement Québec to issue eligibility certificates in spite of non-compliance with the criterion relating to the minimum of six eligible employees at all times, in exceptional circumstances beyond the corporation's control, may possibly be combined where the specific situation of a corporation so requires.

As an example, a corporation whose taxation year corresponds to the calendar year starts a business in Québec, reaches the minimum threshold of six eligible full-time employees on April 1, 2010 and maintains this threshold until November 1, 2010. On that date, while it had seven eligible full-time employees, two of them suddenly decide to leave the corporation. Despite the corporation's efforts, the two positions are not filled until December 6 and 13, 2010 and the minimum threshold of six employees is then satisfied for the rest of the 2010 taxation year. In such a situation, the rules applicable to starting up a business in Québec and those allowing Investissement Québec to consider that non-compliance with the undertaking relating to the minimum employee threshold is attributable to exceptional circumstances beyond the corporation's control could enable the corporation to be qualified as a qualified corporation for the part of its taxation year covering the period from April 1, 2010 to December 31, 2010.

In this regard, it is appropriate to specify that the starting up of a business in Québec or the transfer of activities as such will not be considered an exceptional circumstance beyond a corporation's control, although it is not impossible, as the preceding example shows, that such exceptional circumstances beyond a corporation's control otherwise exist for a corporation starting up a business in Québec or taking part in a transfer of activities.

❑ Adjustment to the notion non-arm's-length relationship for the purposes of the criterion relating to services supplied

A corporation must, to qualify as a qualified corporation, satisfy a criterion regarding services supplied. Satisfaction of this criterion is decided in particular on the basis of services ultimately supplied to a person[117] with whom it is at arm's length.

In this regard, services supplied by a corporation to the members of a cooperative or a federation of cooperatives are considered services supplied to a person with whom it is not at arm's length where the corporation that supplies the services is not at arm's length with the cooperative or the federation of cooperatives.

Since the question as to whether persons who are not related are not at arm's length is one of fact, the significant influence arising from an agreement between two persons can create doubt as to a corporation's qualification as an eligible corporation.

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117 For the purposes of this criterion, a person includes a partnership.

In this context, an adjustment will be made to the notion non-arm's-length relationship for the purposes of the criterion relating to services supplied, in order to avoid any ambiguity in the case where there is a significant influence arising from an agreement.

Accordingly, for the purposes of the criterion relating to services supplied, a corporation and another person will be deemed to have a non-arm's-length relationship where the corporation has, in regard to such other person, a significant influence arising from an agreement, such that, if such influence were exercised, the result would be *de facto* control of the other person by the corporation.

To that end, a significant influence arising from an agreement will include that arising from a franchise, licence, lease, distribution, supply or management agreement or other similar agreement or arrangement, the main purpose of which is to govern relationship between a corporation and another person, regarding the manner in which the business carried on by the other person is to be conducted.

In addition, for the purposes of the criterion relating to services supplied, a corporation and another person will be deemed not to be at arm's length where the corporation that supplies the services to such other person is not at arm's length with a person having a significant influence arising from an agreement regarding such other person.

❑ Application date

These adjustments[118] will apply regarding salaries incurred by an eligible corporation and paid to eligible employees after March 13, 2008, and before January 1, 2016.

Moreover, the tax legislation will be amended to allow a corporation to claim the refundable tax credit for development of e-business for a taxation year, even if the claim for this tax credit is made more than twelve months following the filing deadline applicable to it for the year. This amendment will target situations where the corporation could not obtain the required eligibility certificates without these adjustments to the eligibility criteria and where the claim for the tax credit is made no later than 18 months after the day of the Budget Speech.

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118 The terms and conditions relating to these adjustments will be found, as the case may be, in the tax legislation or the framework legislation that will consolidate the non-tax parameters of certain fiscal measures and whose introduction was announced in *Information Bulletin 2007-10* of December 20, 2007, page 16.

2.11 Increase in the capital cost allowance rate applicable to trucks and tractors designed for hauling freight and introduction of an additional deduction

Since 2010, heavy goods transportation road vehicles made to be used in the United States and Canada must all be equipped with engines that satisfy the new pollution emission standards set by the United States Environmental Protection Agency (EPA). This new generation of engines will significantly reduce emissions of pollutants responsible, among others, for urban smog. However, it does imply an increase in the price of new vehicles.

Using liquefied natural gas (LNG) as a fuel results in a more substantial reduction in greenhouse gas (GHG) emissions compared to diesel combustion. However, the purchase of a heavy goods road transportation vehicle running on LNG involves an additional investment compared to a diesel-powered vehicle.

Currently, the rate of the capital cost allowance a taxpayer can generally claim regarding a truck or tractor designed for hauling freight, and that is primarily so used by the taxpayer, or a person with whom he does not deal at arm's length, in a business that includes hauling freight is 40%, using the diminishing-balance method. For the truck or tractor to qualify to that end, the gross vehicle weight rating[119] must exceed 11 788 kilograms.

To further support the trucking industry with regard to the higher costs of the new-generation engines, secure the industry's active participation in efforts to reduce GHGs and foster a "green shift" in its fleet of vehicles, the 40% capital cost allowance rate applicable to trucks or tractors designed for hauling freight will be raised to 60% where such assets are new at the time they are acquired.

In addition, to foster the development in Québec of technology enabling the use of LNG to power heavy goods road transportation vehicles, an additional deduction of 85% of the amount a taxpayer deducts in calculating his income for the year on account of capital cost allowance will be allowed for trucks and tractors that, in addition to satisfying the conditions stipulated for qualifying for the 60% capital cost allowance, are fuelled by LNG.

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119 Within the meaning of the *Motor Vehicle Safety Regulations*, C.R.C., c. 1038. These regulations are enacted under the *Motor Vehicle Safety Act*, S.C. 1993, c. 16.

2.11.1 Increase in the capital cost allowance rate to 60%

Québec's tax regulations will be amended so that a capital cost allowance rate of 60%, according to the diminishing-balance method, is applicable to property consisting of a truck or a tractor designed for hauling freight, and that is primarily so used by the taxpayer, or a person with whom he does not deal at arm's length, in a business that includes hauling freight, where the gross vehicle weight rating[120] exceeds 11 788 kilograms.

To give rise to this 60% capital cost allowance rate, such a truck or tractor must be new at the time of its acquisition by the taxpayer and be acquired after the day of the Budget Speech.

This 60% capital cost allowance rate will also apply to additions and modifications made to such a truck or tractor to enable such truck or tractor to run on LNG.

Lastly, the half-year rule will apply to the property covered by this increase in the capital cost allowance rate. Under this rule, the capital cost allowance deduction that can be claimed in the year in which the property became ready to be put into service is equal to half the amount that normally would be deductible.

2.11.2 Introduction of an additional deduction

Québec's tax legislation and regulations will be amended to enable a taxpayer to claim an additional deduction of 85% of the amount deducted in calculating its income for the year on account of capital cost allowance in respect of a truck or tractor designed for hauling freight and covered by the 60% capital cost allowance where such truck or tractor is fuelled by LNG.

❑ Properties covered

This additional deduction will be allowed regarding property that is a truck or tractor designed for hauling freight, giving rise to the 60% capital cost allowance, acquired after the day of the Budget Speech but before January 1, 2016 and fuelled by LNG.

A truck or tractor will be considered to be fuelled by LNG if it is fuelled by LNG at the time it is acquired by the taxpayer or if additions or modifications are made to such truck or tractor such that it is fuelled by LNG within a period of twelve months following its acquisition by the taxpayer.

The additional capital cost allowance will also be allowed in respect of additions and modifications made to such truck or tractor to enable it to be fuelled by LNG, where such truck or tractor itself gives rise to the additional deduction.

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120 See prec. note.

A truck or tractor covered by this additional deduction must, during a period of 730 consecutive days following the day it was first used, be used mainly in hauling freight by the taxpayer, or the person with whom he does not deal at arm's length, except in case of involuntary loss or destruction caused, in particular, by an accident, theft, or in case of a major breakdown of the property.

However, a taxpayer may not claim the additional 85% deduction regarding property acquired from a person with whom it does not deal at arm's length or from a partnership with which the taxpayer does not deal at arm's length at the time of the acquisition of the property if the asset has given rise to this additional deduction.

❑ Separate class

A separate class will be stipulated for all property of a taxpayer giving rise to this additional deduction.

❑ Determination of the additional deduction

The amount a taxpayer may deduct in calculating his income on account of the additional deduction for a taxation year will correspond to 85% of the amount he deducts in calculating his income for the year on account of capital cost allowance in respect of the properties covered.[121]

❑ Other terms and conditions

Such additional deduction will not be recaptured following the alienation of the property.

However, a truck or tractor that, at the expiry of a period of twelve months following its acquisition, is not fuelled by LNG will be deemed never to have belonged to the separate class. This will also apply for a truck or tractor that fails to satisfy the conditions stipulated regarding the minimum period of use of 730 days.

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121 For more details, see the heading "Properties covered", page A.99.

2.12 Extension of the refundable tax credit for the construction and major repair of public access roads and bridges in forest areas

The March 23, 2006 Budget Speech introduced a temporary refundable tax credit to foster the construction and major repair of public access roads and bridges in forest areas.[122]

This tax credit enables an eligible corporation that incurs eligible expenses for the construction or major repair of eligible access roads or bridges to receive an amount corresponding to 90% of eligible expenses.

To be eligible for this tax credit, a corporation, or a partnership of which it is a member, must in particular be a party to a timber supply and forest management agreement (TSFMA), a forest management agreement (FMA) or a forest management contract (FMC) entered into with the Ministère des Ressources naturelles et de la Faune (MRNF).

For the expenses relating to an access road to give rise to the tax credit, the access road must, among other conditions, appear in an annual forest management plan submitted to the MRNF as part of a TSFMA, an FMA or an FMC to which the eligible corporation or the partnership of which it is a member is a party and be covered by an eligibility certificate issued by the MRNF. The expenses relating to a bridge only give rise to the tax credit if the bridge is part of such an access road.

Since this tax credit was introduced for a temporary period, the expenses giving rise to it must be incurred by a corporation or a partnership, if applicable, after March 23, 2006 and before January 1, 2011. In addition, they must be incurred in accordance with what appears in an annual forest management plan submitted to the MRNF before January 1, 2010, and the construction or major repair of the eligible access road or bridge by the corporation or partnership, as the case may be, or on behalf of either of them, must be started before January 1, 2010.

❑ Extension of the tax credit for 27 months

To encourage businesses to continue forest management work and to facilitate the transition to the new forest regime expected to come into force on April 1, 2013,[123] the refundable tax credit for the construction and major repair of public access roads and bridges in forest areas will be extended until March 31, 2013, but at respective annual rates of 80%, 70% and 60%.

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122 Ministère des Finances du Québec, *2006-2007 Budget – Additional Information on the Budgetary Measures*, March 23, 2006, Section 1, p. 43.

123 Bill 57, *Sustainable Forest Development Act* (amended title), 1st sess., 39th leg., Québec, 2009 (passed March 23, 2010).

Accordingly, the rate of the tax credit will be 80% for expenses incurred in calendar year 2011, 70% for expenses incurred in calendar year 2012 and 60% for expenses incurred from January 1 to March 31, 2013.

The terms and conditions of the existing tax credit, changed to give effect to the extension of the tax credit with the announced annual rates, will apply to expenses relating to the construction or major repair of eligible access roads and bridges incurred by a corporation or by a partnership, as the case may be, after December 31, 2010 but before April 1, 2013. In addition, such expenses must be incurred in accordance with what appears in an annual forest management plan submitted to the MRNF before January 1, 2012 and the construction or major repair of the eligible access road or bridge by the corporation or partnership, as the case may be, or on behalf of either of them, must be started before January 1, 2012.

2.13 Temporary increase in the rates applicable to two bases of the compensatory tax on financial institutions

Like the goods and services tax (GST) system, the Québec sales tax (QST) system provides for a tax-exemption regarding most financial services. This measure was stipulated because of the problems posed by the application of a sales tax on financial services.

In view of the structure of this sector, the price of services offered is often implicit, reflected for example in the spread between the interest rate paid by borrowers and the rate of return earned by depositors, insured persons and annuitants. Although it is theoretically possible to establish these implicit prices, the operation is extremely complex in practice and, as a result, no country has succeeded in effectively applying a sales tax on financial services.

However, unlike the GST system, the QST system grants suppliers of financial services a refund of the tax paid regarding inputs acquired for the purposes of providing their services. This refund is designed to maintain the competitiveness of Québec financial institutions and prevent a shift of some of their activities (legal services, computer services, etc.) outside the province because of increased costs resulting from the application of the QST.

However, in the interests of neutrality towards other economic sectors and to take the cost of this tax refund for the government into account, financial institutions are subject to a compensatory tax whose objective is to keep their overall tax burden constant compared to what it was prior to the reform of the QST.

This compensatory tax is set on the basis of three tax bases, namely paid-up capital, salaries paid and insurance premiums (including amounts established regarding insurance funds).

The rates currently applied to these components are:

— for paid-up capital, 0.25%;

— for salaries paid:

  — in the case of a bank, a loan company, trust company or securities trading company, 2%;

  — in the case of a savings and credit union, 2.5%;

  — in the case of any other person, 1%;[124]

— for insurance premiums and amounts established regarding insurance funds, 0.35%.

❑ Increase in the rates applicable to salaries paid and insurance premiums

To elicit a special contribution from financial institutions to the efforts to restore order to public finances, the rates applicable to two of the three components of the compensatory tax on financial institutions, namely those applicable to salaries paid and to insurance premiums (including amounts established regarding insurance funds), will be raised temporarily.

More specifically, the rates applicable to financial institutions will be raised:

— for salaries paid:

  — in the case of a bank, loan company, trust company or securities trading company, by 1.9 percentage points, to 3.9%;

  — in the case of a savings and credit union, by 1.3 percentage points, to 3.8%;

  — in the case of any other person, by 0.5 percentage points, to 1.5%;[125]

— for insurance premiums and amounts established regarding an insurance fund, by 0.2 percentage points, to 0.55%.

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124 Excluding an insurance company and a professional order that created an insurance fund under section 86.1 of the *Professional Code*, R.S.Q., c. C-26.

125 See prec. note.

❑ Application dates

The rate increases will apply regarding taxation years ending after the day of the Budget Speech and beginning before April 1, 2014.

In the case of a taxation year that straddles either of these dates, the rate increases applicable to salaries paid will apply to salaries paid after the day of the Budget Speech and before April 1, 2014. The rate increases applicable to insurance premiums and amounts established regarding insurance funds will be weighted to reflect the number of days of the taxation year included in the period starting the day after the Budget Speech and ending March 31, 2014. In the case of a person that is not a financial institution throughout an entire taxation year or part of a taxation year included in the application period of the temporary rate increase, i.e. in the period beginning the day following the day of the Budget Speech and ending March 31, 2014:

— the rate increases relating to salaries paid will apply to salaries paid during the part or parts, as the case may be, of the taxation year, included in the application period, where the person was a financial institution;

— the rate increases applicable to insurance premiums and amount established regarding insurance funds will be weighted to reflect the number of days of the taxation year or part of the taxation year included in the application period during which the person was a financial institution.

❑ Instalment payments

The instalment payments of a corporation whose taxation year straddles the day of the Budget Speech must be adjusted, according to the usual rules, as of the first instalment following such day to reflect the effects of these increases. In the case of a financial institution, other than a corporation, the amounts payable each month regarding the component relating to salaries paid must be adjusted regarding a payment attributable to salary paid after the day of the Budget Speech.

2.14 Adjustment to the limit relating to the deductibility of investment expenses

Under existing tax provisions, an individual may deduct in calculating his income for a taxation year, under certain conditions, the expenses he incurred during the taxation year in order to earn business or property income.

However, since the expenditures incurred to earn property income are attributable to the realization of passive income, and considering the intent, in terms of fiscal policy, to achieve a degree of symmetry between the flow of income from investments held and the expenses incurred to earn such income, a measure limiting the deductibility of investment expenses was announced in the March 30, 2004 Budget Speech,[126] whose application complements the general provisions concerning the deductibility of expenditures incurred for the purpose of earning income.

Accordingly, the deductibility, for a taxation year, of investment expenses incurred by an individual[127] is limited to the income produced by such investments during the taxation year.[128]

Briefly, except for losses resulting from the rental of property and for all exploration and development expenses incurred in Québec, including expenses relating to renewable energy and energy conservation, having been foregone in favour of an investor under the flow-through share plan, the investment expenses included in the calculation of the limit on the deductibility of investment expenses include the items otherwise included in the calculation of the cumulative net investment loss (CNIL).

Apart from certain exceptions, the investment expenses considered for the calculation of an individual's CNIL include the amounts deducted in calculating his property income for the year.

To that effect, a taxpayer may deduct in calculating his property income, for a taxation year, an amount consisting of a debt that he included in calculating his property income for the year or a prior taxation year and that he determines has become a bad debt in the year.

So that the amounts considered for the purposes of the limit on the deductibility of investment expenses no longer include such an amount relating to bad debts, Québec's tax legislation will be amended so that the notion of investment expenses, for the purposes of the limit on the deductibility of investment expenses, no longer includes an amount of bad debt deducted by an individual in calculating his property income for the year.

This change will apply regarding an amount of bad debt deducted in the calculation of an individual's income for taxation year 2009 and subsequent years.

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126 MINISTÈRE DES FINANCES DU QUÉBEC, *2004-2005 Budget - Additional Information on the Budgetary Measures*, March 30, 2004, Section 1, p. 151.

127 For the purposes of this measure, an individual also means a personal trust.

128 However, investment expenses that cannot be deducted within a taxation year can be carried back and applied against investment income earned in any of the three preceding taxation years or carried forward indefinitely to be applied against investment income, provided the investment income earned in any of these years exceeds the expenses then deducted.

3. MEASURES RELATING TO CONSUMPTION TAXES

3.1 Additional increase in the rate of the Québec sales tax as of January 1, 2012

The government announced, in the 2009-2010 Budget Speech, the implementation of a plan to return to balanced budgets by fiscal year 2013-2014. This plan stipulated among other things revenue recovery measures including an increase of one percentage point in the rate of the Québec sales tax (QST) as of January 1, 2011.[129] However, the government indicated that other measures would be needed to balance the budget.

Accordingly, it has decided, as part of the 2010-2011 Budget Speech, to raise the QST rate by a further percentage point as of January 1, 2012, bringing it to 9.5%.

Moreover, to compensate low- and middle-income households for the increase in their tax burden resulting from this increase, the component relating to the QST of the new solidarity tax credit[130] will be raised.

3.1.1 Clarifications relating to the application of the increase in the QST rate

The increase in the QST rate to 9.5% will be applied regarding taxable supplies in relation to which this tax will become payable as of January 1, 2012.

The QST system contains numerous provisions to determine the time when the tax becomes payable by the recipient of the taxable supply of a property or service.

In general, the QST is payable by the recipient on the date of the day when the consideration for the supply is paid or of the day when such consideration becomes due, whichever occurs first. As a result of this rule, the QST is payable on the date of payment of the consideration by the recipient to the supplier or, if earlier, on the date when the latter delivers an invoice to the recipient. In addition, if the date shown on the invoice or the date of payment indicated in a written agreement is prior to the date when the invoice is delivered by the supplier, the QST becomes payable on the date of the first of these two events.

As a result, the time when the QST becomes payable depends on how a transaction bearing on the supply of a property or service is concluded, which evidently differs depending on the nature of the property or service that is the object of the transaction and the type of supply made.

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129 MINISTÈRE DES FINANCES DU QUÉBEC, *2009-2010 Budget – Additional Information on the Budgetary Measures*, March 19, 2009, p. A.51.

130 See subsection 1.2.

The rules for determining the time when the QST at the 9.5% rate applies, depending on the nature of the property or service supplied and the type of supply made, are described below.

❑ General application rule

■ Movable property and service

The taxable supply of movable property or a service will be subject to the QST at a rate of 9.5%, if all of its consideration becomes due after December 31, 2011 and is not paid before January 1, 2012. In addition, the QST at the 9.5% rate will apply regarding any portion of the consideration of such supply that becomes due after December 31, 2011, and is not paid before January 1, 2012.

■ Immovable

▪ Supply by way of sale

The taxable supply of an immovable by way of sale will be subject to the QST at the 9.5% rate if it is made pursuant to a written agreement concluded after December 31, 2011 according to which the ownership and possession of the immovable are transferred to the recipient after such date.

▪ Supply other than by way of sale

The rules described above regarding the taxable supply of movable property or a service will also apply regarding the taxable supply of an immovable made other than by way of sale.

▪ Construction or renovation contract

The taxable supply in respect of the construction, renovation, alteration or repair of an immovable or a ship or other marine vessel will be subject to the QST at the 9.5% rate if it is made pursuant to a written agreement concluded after December 31, 2011.

❑ Specific application rules

■ Continuous supply

The taxable supply of a property or a service delivered or made available continuously by means of a wire, a pipeline or other conduit after December 31, 2011, will be subject to the QST at the 9.5% rate.

In the event that the invoicing of the supply of such property or such service covers a period beginning before January 1, 2012 and ending after December 31, 2011 and, because of the method used to record the delivery of such property or the provision of such service, the supplier is unable to reasonably ascertain the time at which all or part of the property or service is delivered or provided, as the case may be, all of the property or service will be deemed delivered or provided, as the case may be, in equal amounts on each day of the period.

■ Budget payment arrangement with reconciliation

In the event that the consideration for the taxable supply of a property or service delivered, performed or made available during a period beginning before January 1, 2012 and ending after December 31, 2011, is paid by the recipient pursuant to a budget payment arrangement stipulating reconciliation of payments, the QST will be adjusted, when the supplier issues an invoice to establish such reconciliation, to reflect the value of the property or service delivered, performed or made available before January 1, 2012, regardless of when the consideration for the supply is paid.

■ Exchange of movable property

In the event that a person who acquires movable property before January 1, 2012 in respect of which he paid the QST at the 8.5% rate returns the movable property to its supplier after December 31, 2011, to exchange it for movable property of the same value, there will be no tax consequence either for the recipient or the supplier, that is to say the QST at the 8.5% rate will not be refunded regarding the returned property, and no QST at the 9.5% rate will apply regarding the other property.

However, if the exchange involves the payment of an additional amount by the recipient, the QST at the 9.5% rate will apply to such amount.

■ Primacy rules

If one of the provisions respecting the primacy rules under the QST system should apply in respect of a supply with the result that the time of liability corresponds to a date prior to January 1, 2012, the QST at the 8.5% rate will apply.

3.1.2 Consequential amendments

❑ Rounded-off mathematical factors

Since the QST is calculated on a consideration that includes the goods and services tax (GST) at the 5% rate, the effective rate of the QST is currently 7.875% (8.925% as of 2011), while the combined effective rate of the GST and the QST is 12.875% (13.925% as of 2011).

However, the QST system authorizes a registrant, in certain circumstances, to calculate the tax payable in respect of a supply it makes using mathematical factors rounded off to 7.87% or 12.87% (8.92% or 13.92% as of 2011). A registrant can use these rounded-off mathematical factors if the cash register it normally uses is not sophisticated enough for it to calculate the QST using the real rate of 7.5% (8.5% as of 2011) or mathematical factors with three decimal places, i.e. 7.875% or 12.875% (8.925% or 13.925% as of 2011).

With the QST rate rising to 9.5% as of January 1, 2012, these three-decimal mathematical factors will be 9.975% and 14.975%, with the result that the rounded-off mathematical factors that can be applied as of that date will be 9.97% and 14.97%.

❑ Taxable benefit related to the cost of operating an automobile

The QST system stipulates that if a registrant supplies a property or a service to its employee or shareholder giving rise to a benefit whose value must be included in the calculation of the income of the latter pursuant to the *Taxation Act*,[131] the registrant must add, in the calculation of his net tax, an amount of QST determined in respect of this taxable benefit.

In the case of a benefit related to the cost of operating an automobile, the amount of tax to be included in the calculation of the registrant's net tax corresponds, for taxation year 2011, to 5.4% of the value of such benefit.

To reflect the new QST rate of 9.5%, the 5.4% rate will be raised to 6% as of taxation year 2012.

131 R.S.Q., c. I-3.

❑ Quick accounting methods

■ Quick method for small businesses

Small businesses whose revenues from taxable supplies do not exceed $215 000 ($217 000 as of 2011) can use a quick method to determine the net tax payable for a reporting period instead of establishing the QST collected on each of their supplies and that paid on most of their purchases. Small businesses that elect to use this method have only to multiply total revenues from their taxable supplies, including GST and QST, by a prescribed rate set at 2.7% for the vendors of corporeal movable properties (3% as of 2011) and 5.3% for other businesses (6% as of 2011).

To reflect the setting of the QST rate at 9.5%, the revenue amount of $217 000 applicable as of 2011 will be raised to $219 000 and the prescribed rate will be raised to 3.4% for vendors of corporeal movable properties and to 6.6% for other businesses.

■ Quick method for certain public service bodies

Certain public service bodies[132] can use a quick method to determine their net tax payable for a reporting period by applying a prescribed rate to their total revenues from taxable supplies, including GST and QST, instead of establishing the QST collected on each of their supplies and that paid on most of their purchases. The prescribed rate is 4.6% for municipalities (5.2% as of 2011) and 5.9% for other bodies (6.6% as of 2011).

To reflect the rise of the QST rate to 9.5%, the prescribed rate for municipalities will rise to 5.7% and the prescribed rate will rise to 7.3% for other bodies.

■ Application date

The new prescribed rates for quick accounting methods as well as the new revenue amount of $219 000 for small businesses will apply to any reporting period starting after December 31, 2011.

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132 In particular, municipalities, qualifying non-profit organizations (at least 40% funded by a government or municipality) and selected public service bodies (non-profit schools, colleges and universities, as well as hospital authorities).

❑ Simplified method for calculating rebates regarding an expense account

To facilitate administration of the QST, Revenu Québec allows, by administrative policy, a simplified calculation method to be used to determine the QST rebates an employer, partnership and charity or public institution can claim regarding the expenses reimbursed to an employee, partner or volunteer respectively.

According to this method, the input tax refunds (ITR) of small and medium-size businesses and the partial QST rebates of charities, qualifying non-profit organizations and selected public service bodies can be established by applying the mathematical factor 7/107 to the total amount of expenses reimbursed instead of calculating the exact amount of tax paid. For large businesses, the mathematical factor applicable is 4.1% because of restrictions on obtaining an ITR applicable to the latter regarding certain properties and services.

The rises in the QST to 8.5% as of January 1, 2011 and to 9.5% as of January 1, 2012 will lead to changes in these mathematical factors, which Revenu Québec will specify at a later date.

❑ Other consequential amendments

Other consequential amendments will be made to certain provisions of the QST system to reflect the setting of the rate at 9.5%, including those relating to the bringing of property into Québec and the supply of services or of incorporeal movable property made outside Québec to a resident of Québec.

3.2 Improvement to the QST rebate regarding a new residential unit

The QST system includes a mechanism for the partial rebate of the tax paid in respect of a single unit residential complex or co-ownership unit that costs less than $225 000, purchased by an individual or built by him or an intermediary to be occupied as the primary place of residence (hereunder called "new residential unit"). Under this mechanism, a rebate equal to 36% of the QST paid may be obtained for a new residential unit costing $200 000 or less. The rebate gradually decreases for such unit that cost between $200 000 and $225 000.

In view, on the one hand, of the rise in the QST rate to 8.5% as of January 1, 2011 and, on the other, developments in the housing market in recent years, changes will be made to the QST rebate for a new residential unit. Accordingly, the rate of the rebate will rise from 36% to 50% and the threshold value of a new residential unit at which no rebate is granted will be raised from $225 000 to $300 000. Consequently, the maximum rebate that may be obtained will be $8 772.[133]

Correlative changes will be made to the rebate for a new residential unit otherwise granted to an individual for the purchase of a new residential unit located on leased land or for the purchase of a share of the capital stock of a cooperative housing corporation. Accordingly, the amounts of $225 750 and $253 969 set for the purposes of calculating this rebate will be raised to $227 850 and $341 775, and the 2.47% rate applicable in this regard will rise to 3.85%.

An individual will be entitled to the improved rebate if, as the case may be:

— he purchases a new residential unit pursuant to a written agreement concluded after December 31, 2010, according to which the ownership and possession of the unit are transferred to him after such date;

— he receives the supply relating to the construction of a new residential unit pursuant to a written agreement entered into after December 31, 2010;

— he takes possession of a new residential unit located on leased land after December 31, 2010;

— the cooperative housing corporation that supplies him with a share of its capital stock paid the QST at the 8.5% rate in respect of the residential complex that is the object of the supply of the share.

3.3 Application of the QST to the passenger transportation service beginning at Gatineau airport and ending in Canada

Like the harmonized sales tax (HST) system, the QST system stipulates that the supply of a passenger transportation service that is part of a continuous journey that begins in the province and whose final destination is in Canada is generally taxable.

133 The new 50% rebate rate as well as the new $300 000 value will also apply for the determination of the rebate to which an individual is entitled in respect of a new residential unit for which he undertakes substantial renovations or has such renovations made.

However, the Québec tax system includes a specific zero-rating measure regarding the supply of such a service, if the continuous journey begins at the Gatineau airport by an air transportation service. This measure was stipulated when the QST system was implemented to prevent a shift of travellers from Gatineau airport to the Ottawa airport because at that time, the province of Ontario did not tax passenger transportation services.

Given that Ontario will be adopting the HST system as of July 1, 2010, this specific zero-rating measure is no longer necessary and accordingly will be eliminated.

This change to the QST system will apply regarding the supply of such a passenger transportation service made after June 30, 2010.

3.4 Change to the tax structure of the pari mutuel

Currently, a person who, in Québec, makes a bet under a pari mutuel system on a horse race held at a racetrack in or outside Québec must, at the time he places his bet, pay a tax equal to the amount of the bet multiplied by a rate determined on the basis of the number of winning horses included in the bet. Accordingly, the rate is 4% where the bet includes a choice of only a single winning horse and 10% where the bet includes a choice of two or more winning horses.

The tax structure of the pari mutuel will be changed to apply only a single rate to a bet. This single rate will be 2.5%.

This measure will apply to a bet placed by a person after the day of the Budget Speech.

3.5 Gradual rise in the fuel tax

In the 2009-2010 Budget Speech, the government had announced that the role of the Fonds de conservation et d'amélioration du réseau routier (Road Network Preservation and Improvement Fund) would be broadened during fiscal year 2010-2011 to fund not only road infrastructure, but also those relating to public transit. Accordingly, this fund will be replaced during this fiscal year by the Fonds des infrastructures routières et de transport en commun (road and public transit infrastructure fund) that will receive revenue dedicated to it including, in particular, most of the revenue generated by the fuel tax.

The financial projections of this fund indicate that as of fiscal year 2011-2012, its revenue will be insufficient to cover expenditures relating to road and public transit infrastructure. Accordingly, to bridge this gap between revenues and expenditures, the regular rates of the fuel tax of 15.2 cents per litre of gasoline and 16.2 cents per litre of diesel fuel will be raised by 1 cent per litre per year until fiscal year 2013-2014, More specifically, these rises will apply on April 1, of each year, from 2010 to 2013.

The following table shows the fuel tax rates applicable to gasoline and diesel fuel from today until April 1, 2013.

TABLE A.3

Fuel tax rates
(cents/litre)

Type of fuel	Current	2010	2011	2012	2013
Gasoline	15.2	16.2	17.2	18.2	19.2
Diesel fuel	16.2	17.2	18.2	19.2	20.2

Note: The rate rises will apply as of April 1 of each year.

❑ Taking of inventory

Persons who sell products regarding which the fuel tax was collected in advance or should have been, must take an inventory of all such products they have in stock at midnight March 31 of each year, from 2010 to 2013, and remit for each of these years, before the end of the following month of April, an amount corresponding to the difference between the tax applicable at the new rates and that applicable at the rates in effect before midnight March 31 of each of these years.

Persons required to take an inventory must, for that purpose, use the form provided by Revenu Québec and return it before the end of April of each of these years.

❑ Review of the reduction of the fuel tax applicable to gasoline in border regions

To prevent these rises from negatively affecting the competitive position of Québec retailers established near borders compared to that of their competitors located in regions adjoining Québec, the fuel tax reduction measure applicable to gasoline in regions bordering with Ontario, New Brunswick and the United States will be reviewed to see if changes need to be made.

3.6 Further reduction of the specific tax applicable to alcoholic beverages sold by a small-scale producer

As a rule, the rates of the specific tax on alcoholic beverages, other than beer, sold in Québec, are $1.97 per litre or $0.89 per litre, depending on whether they are sold for consumption in an establishment or elsewhere than in an establishment.

However, a reduction of the rates of the specific tax is granted regarding alcoholic beverages, other than beer, sold in a calendar year in Québec by a small-scale producer whose worldwide volume of such beverages sold in the course of the previous calendar year by him, a producer with whom he is associated under the *Taxation Act*[134] or a producer whose business he has continued to carry on, did not exceed 5 000 hectolitres. Accordingly, these rates are reduced by 100% on the first 1 500 hectolitres of beverages sold in a calendar year and by approximately 50% on the next 1 500 hectolitres.

To reflect the development of activities of small-scale producers of alcoholic beverages, other than beer, the measure reducing the rates of the specific tax applicable to their products will be improved.

First, the worldwide volume of alcoholic beverages, other than beer, sold during a calendar year beyond which a small-scale producer can no longer apply the reduced rates will be raised from 5 000 to 15 000 hectolitres.

Moreover, the rates will continue to be reduced by 100% on the first 1 500 hectolitres of beverages sold in a calendar year, but will henceforth by reduced by approximately 85% on additional sales, up to 13 500 hectolitres. More specifically, on these additional 13 500 hectolitres, the rates of the specific tax will be $0.296 per litre for beverages sold for consumption in an establishment and $0.134 per litre for those sold for consumption elsewhere than in an establishment.

134 R.S.Q., c. I-3.

The table below shows the specific tax rates on alcoholic beverages, other than beer, sold by a small-scale producer before and after the new reduction.

TABLE A.4

Rates of the specific tax on alcoholic beverages, other than beer, sold by a small-scale producer
(dollars per litre)

Quantity sold	Rate before new reduction		Rate after new reduction	
	In an establishment	Elsewhere than in an establishment	In an establishment	Elsewhere than in an establishment
First 1 500 hectolitres	0	0	0	0
Next 1 500 hectolitres	0.99	0.45	0.296	0.134
Next 12 000 hectolitres	1.97	0.89	0.296	0.134
Subsequent hectolitres	1.97	0.89	1.97	0.89

This measure will apply to all alcoholic beverages, other than beer, sold by a small-scale producer after the day of the Budget Speech.

4. OTHER MEASURES

4.1 Recognition of certain large investments made in partnership with Capital régional et coopératif Desjardins

Capital régional et coopératif Desjardins (CRCD) is an investment corporation whose mission is to marshal venture capital for the resource regions of Québec and cooperatives.

In less than ten years, it has carved out a significant place for itself in Québec's venture capital industry, especially with small and medium-size enterprises (SME) in the regions. Through its sustained presence in the resource regions, CRCD helps stimulate regional economic development. Accordingly, over the years, it has become indispensable for regional SMEs that need capital to reach financial self-sufficiency and maturity.

Since CRCD's formation, the Québec government has supported its mission by granting a tax benefit to individuals who acquire its shares. This tax benefit, which consists of a non-refundable tax credit equal to 50% of the issue price of the shares, is designed to encourage individuals to take part in Québec's economic development.

Since CRCD's financing is facilitated by the granting of a tax benefit, an investment requirement has been included in its statute of incorporation to ensure, in particular, that the funds collected are used as a financing tool contributing to the development of Québec entities.

This requirement stipulates, for each fiscal year, that CRCD's eligible investments – that include neither security nor hypothec – must represent, on average, at least 60% of its average net assets for the preceding fiscal year, and a part, hereunder called the "regional component", representing at least 35% of this percentage must be made in eligible cooperatives or in entities located in Québec's resource regions.[135]

If either of the components of the investment requirement is not satisfied for a given fiscal year, CRCD becomes liable for a special tax.

Over the years, the investment requirement has been changed to adapt it more closely to the capital needs of Québec companies and to enable CRCD to play a greater role in the economy.

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135 I.e. Abitibi-Témiscamingue, Bas-Saint-Laurent, Côte-Nord, Gaspésie–Îles-de-la-Madeleine, Mauricie, Nord-du-Québec and Saguenay–Lac-Saint-Jean.

Currently, for the purposes of this requirement, eligible investments include, among others, investments in Québec SMEs, investments in major projects with a structuring effect on Québec's economy, strategic investments made in accordance with an investment policy approved by the Minister of Finance as well as investments made in certain local venture capital funds created and managed in Québec.

To recognize the participation of CRCD in a new development capital fund created in partnership with the Caisse de dépôt et placement du Québec, and to reflect the fact that part of its major investments can have an impact on economic activity in the resource regions, changes will be made to the *Act constituting Capital régional et coopératif Desjardins*.[136]

❑ Investments in a development capital fund

In January 2010, CRCD and the Caisse de dépôt et placement du Québec announced that they had agreed to set up a development capital fund (Capital Croissance PME) to support the growth and development of businesses throughout Québec with financial needs of less than $3 million. The two partners will each provide half of the fund's capital of $200 million.

To recognize CRCD's contribution to the implementation of the Capital Croissance PME fund, the investments[137] this corporation will make in the fund – as well as investments that have been agreed and for which amounts have been committed but not yet disbursed[138] at the end of a given fiscal year –, will be considered eligible investments for the purposes of calculating the investment requirement applicable to it.

In addition, in view of the investment policy Capital Croissance PME intends to follow, 35% of any investment by CRCD in this fund, including those agreed, will be considered an investment made in an entity located in a resource region of Québec for the purposes of the regional component of the investment requirement.

❑ Clarification concerning the major investment category

Among the investments eligible for the investment requirement imposed on CRCD, there are major investments that, in the view of the Minister of Finance, have strategic value.

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136 R.S.Q., c. C-6.1.

137 That include no security or hypothec.

138 For greater clarity, these investments will not be included in the calculation of the 12% authorized limit applicable to non-disbursed investments.

More specifically, any investment not involving any security or hypothec, made in a corporation or partnership, consisting of an initial capital outlay of at least $25 million or of an additional capital outlay, provided, on the one hand, that the strategic value of the initial capital outlay and, as the case may be, of the additional capital outlay has been recognized by the Minister of Finance and, on the other, that such investment cannot be considered an otherwise eligible investment, can qualify as a major investment.

However, the major investments that may be considered for the purposes of the investment requirement for a given fiscal year may not exceed 7.5% of CRCD's net assets at the end of the preceding fiscal year.

According to CRCD's incorporating statute, an initial capital outlay or additional capital outlay that qualifies as a major investment may also be eligible for the regional component of the investment requirement if, in the view of the Minister of Finance, such capital outlay has an impact on economic activity in the resource regions.

However, this statute does not allow only a part of such capital outlay to be made eligible for the regional component.

Although the investment funds with which CRCD is associated generally act on Québec's territory as a whole, rarely can it be concluded that all of an investment made by CRCD in such a fund has an impact on economic activity in the resource regions.

Accordingly, to reflect the fact that an investment fund may have an investment policy that allocates a non-negligible percentage of its capital to the resource regions, CRCD's incorporating statute will be amended to stipulate that the Minister of Finance may, if he is of the view that the concentration in the resource regions of an investment fund's capital is satisfactory, decide what is the proportion of each dollar invested, on account of a major investment, by CRCD in such fund that will be considered an investment made in entities located in Québec's resource regions.

This amendment will apply to an investment made after the day of the Budget Speech.

4.2 Longer prison sentence for tax evasion

The ongoing development of tax evasion schemes means that the government continues to lose substantial amounts of tax revenue. Accordingly, the government will intensify its efforts to limit this phenomenon by imposing longer prison sentences on persons convicted of certain major tax offences stipulated by the *Act respecting the ministère du Revenu*.[139]

Currently, a person found guilty of such an offence is liable for a fine of up to double the tax evaded, or both the fine herein described and imprisonment for a term not exceeding two years.

The *Derivatives Act*[140] and the *Securities Act*,[141] which are administered by the Autorité des marchés financiers, stipulate imprisonment of up to five years less one day for those convicted of major economic offences.

Major tax offences are as serious as major economic offences. In both cases, the degree of the offender's liability is similar, in particular regarding the scope of the offence, the significant degree of premeditation and the substantial personal benefits he derives from them. It is therefore appropriate that the courts have the discretion to impose a similarly heavy prison sentence in tax matters.

Consequently, amendments will be made to the *Act respecting the ministère du Revenu* regarding such major tax offences to raise the maximum prison sentence a court may impose for such offences to five years less one day.

This measure will come into force on the date the bill giving effect thereto is assented to.

139 R.S.Q., c. M-31, sec. 62, 62.0.1 and 62.1.

140 R.S.Q., c. I-14.01.

141 R.S.Q., c. V-1.1.

5. FEDERAL LEGISLATION AND REGULATIONS

5.1 Measures relating to the March 4, 2010 federal budget

On March 4, 2010, the Minister of Finance of Canada presented the federal government's budget for 2010. This budget includes various fiscal measures that affect the tax system.

Along with the budget, the federal Minister of Finance tabled, in the House of Commons, supplementary information as well as notices of ways and means motions[142] to amend the *Income Tax Act*[143] and the *Excise Tax Act*.[144]

In this regard, Québec's tax legislation and regulations will be amended to incorporate some of the measures announced. However, the changes to Québec's tax system will only be adopted following the assent given to any federal legislation or adoption of any federal regulation giving effect to the measures retained, taking into account the technical changes that may be made to them before such assent or adoption. Lastly, these changes will apply on the same dates as those retained for the purposes of the federal measures with which they harmonize.

❑ Measures relating to the *Income Tax Act*

■ Measures retained

Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the measures relating to:

1. the transfer to a registered disability savings plan of an amount received from certain registered savings plans for retirement, following the death of an individual who was the participant or the annuitant, as the case may be, by a child or a grandchild who was financially dependent on the individual immediately prior to his death (BR 5 to BR 10),[145] subject to the reserve that the incorporation of these measures will be by reference to the federal tax legislation;

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142 DEPARTMENT OF FINANCE CANADA, *Canada's Economic Action Plan (Year 2) – Budget 2010: Leading the Way on Jobs and Growth*, March 4, 2010, Annex 5, Tax Measures: Supplementary Information and Notices of Ways and Means Motions, p. 331.

143 R.S.C. 1985, c. 1 (5th Supp.).

144 R.S.C. 1985, c. E-15.

145 References in parentheses correspond to the number of the budget resolution of the Notice of Ways and Means Motion to Amend the *Income Tax Act* and *Income Tax Regulations* tabled March 4, 2010.

2. the tax treatment of amounts paid, directly or indirectly, by a provincial government into a registered education savings plan or a registered disability savings plan (BR 11 to BR 13);[146]

3. the disbursement quota that registered charities must satisfy (BR 18 to BR 21);[147]

4. the addition of a requirement to be entitled to the deduction for employee stock options (BR 23 and BR 24);

5. the withdrawal of the election to defer taxation of a benefit arising from the exercise of a stock option granted to an employee of a corporation, other than a Canadian-controlled private corporation (CCPC), or a mutual fund trust and the obligation to withhold tax at source (BR 25 to BR 28);

6. the temporary relief allowed individuals who elected to defer taxation of a benefit arising from the exercise of a stock option granted to an employee of a corporation, other than a CCPC, or a mutual fund trust (BR 29 a) to c), BR 30 and BR 31), subject to the specific features described below;

7. the non-taxation of part of certain benefits received under U.S. social security legislation (BR 32);

8. the changes made to the definition of "principal-business corporation" applicable as part of the flow-through share system (BR 34);

9. the changes made to the acquisition of control rules upon the conversion of a specified investment flow-through entity to a corporation (BR 35 to BR 37);

10. the changes made to the definition of "taxable Canadian property" and the correlative adjustments (BR 38 to BR 40);

11. the changes made to the relief mechanism applicable to foreign tax paid (BR 42 to BR 44);

12. the changes concerning the accelerated capital cost allowance on account of clean energy generation applicable to heat recovery equipment and distribution equipment of a district energy system;[148]

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146 Budget resolutions 11 to 13, where they apply to registered education savings plans, will be adapted for the purposes of the Québec education savings incentive. Accordingly, for the purposes of these measures, the amounts paid into a registered education savings plan under a program administered by a province, or a program funded, directly or indirectly, by a province but administered by a third party, will receive the same treatment as those paid under a program administered in accordance with an agreement entered into with the government of a province under the *Canada Education Savings Act*, S.C. 2004, c. 26.

147 The measures adopted in relation to the disbursement quota rules will also be extended to registered museum institutions, registered cultural or communication organizations and recognized political education organizations, as though these entities were charities registered as charitable organizations.

148 Department of Finance Canada, *Budget 2010*, p. 359.

13. the changes concerning the capital cost allowance applicable to satellite and cable set-top boxes;[149]

14. the changes to specified leasing property rules.[150]

In addition, although it requires no legislative or regulatory amendment, the measure relating to the application for a refund of an overpayment in certain circumstances will also be retained for the purposes of Québec's tax system (BR 41).

■ Special features relating to the temporary relief from the tax treatment applicable following the alienation of certain securities acquired under an employee stock option

Where an individual, during a given taxation year and before 2015, disposes of securities regarding which a valid election to defer taxation of the benefit attributable to their acquisition was made for the purposes of paragraph 8 of section 7 of the *Income Tax Act* and he made the election, on the prescribed form, to claim preferential tax treatment for the given year, the following rules will apply:

— the rate of the deduction relating to the employee stock options will rise, regarding securities covered by these elections, from 50% to 100% if the securities were alienated or exchanged before June 13, 2003 or if they were acquired under a stock option granted after March 13, 2008 by a small or medium-size enterprise carrying out innovation activities,[151] from 37.5% to 87.5% if the securities were alienated or exchanged after June 12, 2003 and before March 31, 2004 and from 25% to 75% if the securities were alienated or exchanged after March 30, 2004;

— an amount equal to 50% of the lesser of the value of the taxable benefit attributable to the acquisition of such securities and the capital loss resulting from their alienation will be included, on account of taxable capital gain, in the calculation of the individual's income for the given year;

— a special tax, equal to 50% of the proceeds of alienation of the securities, must be paid by the individual for the given year.

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149 Ibid., p. 364.

150 Ibid., p. 381.

151 Briefly, a small or medium-size enterprise carrying out innovation activities is a corporation that, in the calendar year during which the option is granted (reference year), carries on a business in Québec and has an establishment there, if, for its taxation year that ended in the calendar year preceding the reference year, it had assets of less than $50 million, including the assets of corporations with which it was associated in the taxation year, and if an amount on account of a refundable tax credit for R&D was granted to it for its taxation year that ended in the reference year or for one of the preceding three taxation years.

For greater clarity, and individual may, for the purposes of Québec's tax system, make an election separate from the one he made for the purposes of the federal tax system concerning preferential tax treatment.

■ Measures not retained

Some measures have not been retained because they do not correspond to features of Québec's tax system or because Québec's tax system has no corresponding provisions. These measures concern:

— the allocation, in the case of shared custody, of the component relating to children granted by the goods and services tax/harmonized sales tax (GST/HST) credit (BR 1);

— the possibility allowed the head of a single-parent family to designate the amounts he received on account of the universal child care benefit as the income of one of his minor children (BR 3);

— the information exchanges concerning provincial education savings or disability savings assistance programs (BR 14);

— the scope of the definition of the expression "qualifying education program" for the purposes of the education tax credit (BR 17);

— the strengthening of anti-avoidance rules applicable to registered charities (BR 22);

— the adjustment to determine an individual's income for the purposes of certain provisions of the *Income Tax Act* (BR 29 d);

— the mining exploration tax credit (BR 33);

— the proposals to tighten enforcement rules of the system to combat the recycling of the proceeds of crime and money laundering.[152]

Other federal measures were not retained because the Québec tax system is satisfactory in their regard. The measures concern:

— the allocation of the Canada Child Tax Benefit in the event of shared custody (BR 2);

— the exclusion, from the list of expenses qualifying for the medical expense tax credit, of expenses paid for purely cosmetic medical or dental services (BR 4);

— the determination of the exemption regarding scholarships and bursaries (BR 15 and BR 16);

152 DEPARTMENT OF FINANCE CANADA, *Budget 2010*, p. 385.

— the interest paid by the Department of National Revenue on overpayments of tax;[153]

— the reporting of tax avoidance transactions;[154]

— the issuing of electronic notices by the Canada Revenue Agency.[155]

■ Announcement at a later date

The Ministère des Finances du Québec will announce its position concerning proposed changes relating to foreign investment entities and non-resident trusts at a later date (BR 45).

It will also announce its position concerning possible changes to the tax rules for corporate groups, like the establishment of an official system of loss transfers or the filing of consolidated returns,[156] at a later date, as well as its position regarding possible amendments to the federal tax legislation that may arise from the introduction of a new legislative framework allowing the creation of federal credit cooperatives.[157]

❑ Measures relating to the *Excise Tax Act*

Changes will be made to the Québec sales tax (QST) system to incorporate, with adaptations based on its general principles and subject to specific Québec features, the federal measures concerning the application of the GST/HST to purely cosmetic procedures (BR 1 to BR 7)[158] and the simplification of the GST/HST for the direct selling industry (BR 8 to BR 10).

Moreover, it is appropriate to note that the Ministère des Finances du Québec has already announced that Québec's tax system will be changed to incorporate federal legislative proposals of a technical nature giving effect to legal decisions concerning the GST/HST and financial services (BR 11).[159]

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153 Ibid., p. 364.

154 Ibid., p. 382.

155 Ibid., p. 384.

156 Ibid., p. 386.

157 Ibid., p. 365.

158 The References in parentheses correspond to the number of the budget resolution of the Notice of Ways and Means Motion to Amend the *Excise Tax Act* tabled March 4, 2010.

159 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2009-9*, December 22, 2009, p. 7.

5.2 News release 2010-016 of February 26, 2010

On February 26, 2010, the Minister of Finance of Canada issued a news release containing legislative proposals to implement a series of tax measures relating to employee life and health trusts.

Essentially, the effect of these proposals is to create a new type of taxable trust called "employee life and health trust", provide rules regarding the timing of the deduction of any pre-funding of such a trust by an employer, allow the trust to deduct in calculating its income all the benefits paid to employees or retirees, provide rules governing the carry-back and carry-forward of any losses suffered by the trust after deducting benefit payments and treat benefits received from the trust as if they had been received directly from the employer.

Given that, in general, Québec's tax system is harmonized with the federal tax system insofar as the determination of trust income is concerned, Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, most of the proposed federal measures.

However, the federal measure stipulating that an individual will not be required to include, in calculating his income from an office or employment, the value of benefits resulting from contributions paid by his employer as part of an employee life and health trust will be adapted to reflect the specific features of Québec's tax system.

More specifically, the incorporation of this measure will be subject to the rule according to which an individual must include, in calculating his income from an office or employment, the value of the benefit he receives, or from which he benefits, for a taxation year where, because of his office or employment, current, former or projected, protection is granted to him in the course of the year under a life and health insurance plan, other than group protection against total or partial loss of income from an office or employment.

In addition, the federal measure adding, to the list of trusts excluded from the application of Part XII.2 of the *Income Tax Act*,[160] employee life and health trusts and the one stipulating that payments from such a trust to non-residents will be subject to tax under Part XIII of the Act, unless the payments are designated payments, will not be incorporated because Québec's tax system does not contain corresponding provisions.

Moreover, the changes that will be made to Québec's tax system will only be adopted following the assent given to any federal legislation or adoption of any federal regulation giving effect to the measures retained, taking into account the technical changes that may be made to them before such assent or adoption. These changes will apply as of the same dates as those retained for the purposes of the federal measures with which they harmonize.

160 R.S.C. 1985, c. 1 (5th Supp.).

5.3 News release 2010-014 of February 25, 2010

On February 25, 2010, the Minister of Finance of Canada announced, in a news release, proposed changes to the harmonized sales tax (HST) system concerning place of supply rules that allow suppliers to decide whether the provincial component of the HST must be charged on their taxable supplies of goods and services made in Canada. Changes are also proposed regarding related rules stipulating self-assessment of the provincial component of the HST, or its rebate, in certain circumstances where goods or services are either transferred in a province, or acquired in a province to be consumed, used or supplied outside the province.

In keeping with the principle of substantial harmonization of the Québec sales tax (QST) and the HST regarding place of supply rules applicable to interprovincial transactions as well as the related self-assessment and rebate rules, Québec's tax system will generally be harmonized with the HST system in this regard, subject to Québec's specific features and taking the provincial character of the QST into account.

Accordingly, changes will be made to the QST system to incorporate, with adaptations based on its general principles, these proposed changes to the HST system. These changes will only be adopted once any legislation arising from the federal news release has been assented to or any regulation arising therefrom has been adopted, taking into account the technical changes that may be made to them before such assent or adoption. They will apply on the same dates as those retained for the purposes of the changes to the HST system with which they harmonize.

5.4 News release 2009-120 of December 18, 2009

On December 18, 2009, the Minister of Finance of Canada released, for consultation, legislative proposals amending the *Income Tax Act*,[161] the *Budget and Economic Statement Implementation Act, 2007*[162] and the *Income Tax Regulations*,[163] concerning the taxation of Canadian multinational corporations that have foreign affiliates. The legislative proposals include, in particular, regulatory provisions that stem from changes, announced in the 2007 federal budget,[164] that were made to the provisions of the *Income Tax Act* concerning foreign affiliates.

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161 R.S.C. 1985, c. 1 (5th Supp.).

162 S.C. 2007, c. 35.

163 C.R.C., c. 945.

164 Department of Finance of Canada, *Budget Plan 2007 – Budget 2007: Aspire to a Stronger, Safer, Better Canada*, March 19, 2007, p. 419-423.

The Ministère des Finances has previously announced that, in general, Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the legislative amendments applicable to the rules relating to foreign affiliates.[165]

The same applies in relation to the legislative proposals released on December 18, 2009. However, these changes will only be adopted after assent is given to any federal statute arising from these legislative proposals, taking into account any changes that may be made prior to assent. Lastly, these changes will apply as of the same dates as those retained for the purposes of the federal legislative proposals with which they harmonize.

5.5 News release 2009-103 of October 27, 2009

On October 27, 2009, the Minister of Finance of Canada issued a news release announcing a reform plan of the federal private pension plan legislative and regulatory framework, one of whose objectives is to reduce the volatility of capitalization of defined-benefit pension plans.

At the same time, he also announced that the pension fund surplus threshold stipulated by the tax legislation would be raised from 10% to 25%, for all defined-benefit pension plans, whether under federal or provincial jurisdiction.[166] This threshold is one of the items that must taken into consideration to determine whether the contribution paid by an employer under the defined-benefit provisions of a registered pension plan can be deducted in calculating its income.

For the purposes of Québec's tax system, a taxpayer can deduct, in calculating his income, the amount allowed as a deduction in calculating his income for the purposes of the *Income Tax Act*[167] on account of employer contributions paid to a registered pension plan.[168]

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165 To that effect, see: MINISTÈRE DES FINANCES DU QUÉBEC, *2003-2004 Budget – Additional Information on the Fiscal Measures*, June 12, 2003, p. 139 and MINISTÈRE DES FINANCES DU QUÉBEC, *2007-2008 Budget – Additional Information on the Budgetary Measures*, May 24, 2007, p. A.23.

166 This change must also apply to designated plans and replace the existing federal rules on surpluses for joint pension plans.

167 R.S.C. 1985, c. 1 (5th Supp.).

168 As part of the Budget Speech of April 26, 1990, it was announced that Québec's tax legislation and regulations would be amended so that the rules introduced in the reform of tax assistance for retirement savings would be the same as those applicable for federal income tax purposes. However, in view of the complexity of the provisions relating to this reform, for individuals, employers and the tax administration, it was then decided that the federal rules would be incorporated by reference.

Accordingly, while they do not require any legislative or regulatory amendment, the federal measures relating to this increase, from 10% to 25%, of the surplus threshold stipulated for defined-benefit registered pension plans will, in accordance with the principle of substantial harmonization of the tax systems in this matter, be retained for the purposes of Québec's tax system.

5.6 News release 2009-099 of October 16, 2009

On October 16, 2009, the Minister of Finance of Canada issued a news release announcing various changes designed to tighten the anti-avoidance rules relating to the tax-free savings account (TFSA), to more effectively curb abusive tax planning schemes.

One of the proposed measures consists in making taxable any income that can reasonably be attributed to an ineligible investment, including the income from the income earned from such investment.

Currently, the *Taxation Act*[169] stipulates that a trust governed by a TFSA is required to pay income tax when it holds an ineligible investment. However, it does not stipulate that such a trust must pay tax on the income from income earned on such an investment.

Given that Québec's tax system is harmonized with the federal tax system as far as the tax treatment of income from a TFSA is concerned, Québec's tax legislation will be amended to incorporate the federal measure relating to the taxation of any income that can reasonably be attributed to an ineligible investment held by a trust governed by a TFSA.

The change to Québec's tax system will be adopted only after assent is given to any federal statute giving effect to this measure, taking into account the technical changes that may be made prior to such assent. In addition, it will apply as of the same date as the one retained for the purposes of the federal measure with which it is harmonized.

For greater clarity, the other changes mentioned in News Release 2009-099 of the Department of Finance Canada will not be retained for the purposes of Québec's tax system, since they bear on provisions that have no equivalent in Québec's legislation.

169 R.S.Q., c. I-3, sec. 935.23.

5.7 Compulsory electronic filing of tax returns

On December 15, 2009, the *Excise Tax Act*[170] was amended to implement, as of July 1, 2010, the new harmonized value-added tax framework in Ontario and British Columbia.[171]

The amendments to the Act include the obligation for certain persons to file their tax returns electronically according to the terms and conditions stipulated by the Minister of National Revenue, as well as a penalty for failure to file returns electronically.

In a news release issued January 4, 2010, the Minister of National Revenue unveiled the application details of this new obligation for certain registrants to file their GST/HST returns electronically as of July 1, 2010.[172]

Since the QST system is generally harmonized with the GST system insofar as measures relating to tax returns are concerned to foster unified administration of these systems, Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the amendments to the federal tax legislation and regulations relating to compulsory electronic filing of tax returns and the penalty for failure to file returns electronically.

Accordingly, registrants that are required to file their GST/HST returns electronically will also be required to do likewise for their QST returns for filing periods ending after June 2010.

5.8 Harmonization in relation to the reallocation of amounts

Where an amount is allocated to a sum that is or may become payable by a person pursuant to the *Income Tax Act*,[173] the *Employment Insurance Act*[174] or the Canada Pension Plan,[175] in particular, the *Income Tax Act* authorizes the Minister of National Revenue, at the request of the person, to allocate all or part of the amount to another sum that is or may become payable pursuant to these statutes.[176] Such reallocation of amounts is also possible regarding sums due pursuant to the *Income Tax Act* and the *Excise Tax Act*,[177] in particular.[178]

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170 R.S.C. 1985, c. E-15.

171 More specifically, the *Excise Tax Act* was amended by the *Provincial Choice Tax Framework Act*, S.C. 2009, c. 32.

172 CANADA REVENUE AGENCY, "Government of Canada announces new electronic filing requirements for GST/HST registrants", [News Release], January 4, 2010.

173 R.S.C. 1985, c. 1 (5th Supp.).

174 S.C. 1996, c. 23.

175 R.S.C. 1985, c. C-8.

176 *Income Tax Act*, sec. 221.2, par. 1.

177 R.S.C. 1985, c. E-15.

Like the federal tax legislation, Québec's tax legislation and regulations will be amended to allow Québec's Minister of Revenue, where an amount is allocated to a sum that is or may become payable by a person pursuant to a fiscal law within the meaning of the *Act respecting the ministère du Revenu*,[179] to reallocate, at such person's request, all or part of such amount to another sum that is or may become payable by such person pursuant to the same fiscal law or another fiscal law.

For the purposes of these laws, the reallocated amount will be deemed to have been paid at the same time as the first allocation and the first allocation will be deemed not to have been made up to the amount reallocated. In addition, the amount will be deemed not to have been paid on account of the sum payable or that may become payable under a fiscal law and covered by the first allocation up to the reallocated amount.

The proposed amendment will apply to reallocation requests filed as of the day of the Budget Speech.

178 *Income Tax Act*, sec. 221.2, par. 2.

179 R.S.Q., c. M-31.

6. INTRODUCTION OF A WATER ROYALTY

The *Act to affirm the Collective Nature of Water Resources and Provide for Increased Water Resource Protection*,[180] which received assent in June 2009, confirms the legal status of water as a collective resource indispensable for life and part of the common heritage of the Québec nation. It grants the State, as the guardian of the nation's interests, the necessary powers to ensure the protection, restoration, improvement and management of water resources.

To sensitize water users to the value of this resource, improve the environmental management of water and ecosystems and, subsequently, partially fund the protection, restoration and improvement of this resource, the government has decided to introduce a water royalty as of January 1, 2011.

The royalty will target businesses in the industrial and commercial sectors drawing 75 m^3 of water or more per day either directly or from water mains. The royalty will not apply to the residential, institutional or farm sectors.

The royalty will apply two rates that depend on the use of the resource. Accordingly, the rate will be \$0.0025/m^3 for businesses using water in their production processes and \$0.07/m^3 for those using water as a component of their products.

The amounts generated by this royalty will be paid into the Green Fund[181] and will be used to fund programs and actions focused on the management and restoration of water, and aquatic ecosystems. The application details of the royalty will be announced at a later date by the Minister of Sustainable Development, Environment and Parks.

180 R.S.Q., c. C-6.2.

181 This fund, created in 2006, is dedicated to financing measures or programs that the Minister of Sustainable Development, Environment and Parks may carry out within the scope of her ministerial functions.

Section B

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SOLIDIFYING RECOVERY

1. CONTINUATION OF THE ACTION PLAN

1.1 Plan Emploi Métropole

Given that, proportionately, job losses were four times higher in 2009 in the Montréal region than in Québec as a whole, the 2010-2011 Budget provides for the implementation of the Plan Emploi Métropole. Under this strategy, the government and the private sector will invest an additional $30 million over two years in the Montréal region, that is:

— $20 million from the Québec government;

— $10 million from the Commission des partenaires du marché du travail.

As part of the Plan Emploi Métropole, the government is announcing six measures, in three areas of intervention, tailored to the Montréal region's economic and social situation in order to boost employment. These measures will make it possible to:

— develop workforce skills, in particular through training and innovation in human resources management;

— provide support to people looking for work, in particular victims of industrial reconversion and immigrants, in order to facilitate participation in the labour market;

— support investment and entrepreneurship in order to promote the development of certain sectors.

To that end, additional funding of $10 million in 2010-2011 and in 2011-2012 will be granted to the Ministère de l'Emploi et de la Solidarité sociale. For 2010-2011, funding will come from the Contingency Fund.

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1 MINISTÈRE DES FINANCES DU QUÉBEC, *2010-2011 Budget - Choices for the Future - Economic and Budgetary Action Plan*, March 30, 2010.

1.2 Support for the forest industry

1.2.1 Financing for the production of seedlings

The production of seedlings to regenerate sites damaged by fire, disease or insects is one of the first stages in the implementation of a silvicultural intervention plan aimed at full reforestation.

Given the importance of this production stage and the difficult economic situation, the government has financed the production of seedlings since January 1, 2007.

Since these continue to be tough economic times for forest companies, the government is announcing the extension of this measure for 2010-2011.

To that end, additional funding of $25.6 million will be granted in 2010-2011 to the Ministère des Ressources naturelles et de la Faune.

1.2.2 Extension of the silvicultural investment program

To continue efforts aimed at the sustainable development of forest lands, the silvicultural investment program is being extended. Through this measure, it will be possible to increase the forest resource and encourage the retention of some 2 000 jobs in the regions.

To that end, the silvicultural investment program will receive additional funding of $14.9 million in 2010-2011 for silvicultural work in the regions south of the 49th parallel. The funding will be allocated to the Ministère des Ressources naturelles et de la Faune and will come from the Contingency Fund.

1.2.3 Protecting forests

On average, forest fires affect the equivalent of 94 000 hectares a year, wiping out silvicultural investments and resort infrastructure in the regions hit.

To protect these investments and ensure adequate protection of forest lands, a forest management strategy was introduced as part of the forest sector support plan.

Given that that component of the support plan ends this year, the government intends to continue assuming all costs associated with forest firefighting operations in the coming year.

To that end, additional funding of $10 million will be granted in 2010-2011 to the Ministère des Ressources naturelles et de la Faune.

1.3 Gaspésie–Îles-de-la-Madeleine development strategy

Although the economic situation of the Gaspésie–Îles-de-la-Madeleine region has improved in recent years, the long-term maintenance of tailored measures such as the Fonds d'intervention stratégique régional and the Fonds d'aide au développement des territoires de la Gaspésie–Îles-de-la-Madeleine remains crucial to diversifying the regional economy and narrowing the economic gap with the other regions of Québec. Thus, the government is announcing the renewal of its financial support for these funds for the next three years.

To that end, additional funding of $6 million a year from 2010-2011 to 2012-2013 will be allocated to the Ministère des Ressources naturelles et de la Faune. For 2010-2011, funding will come from the Contingency Fund.

1.4 End of investments by the $500-million emergency fund, Fonds Élan d'entreprises

The government announced, in the 2009-2010 Budget, the implementation of a $500-million emergency fund for the recovery of businesses affected by the economic situation: the Fonds Élan d'entreprises.

The Fonds de solidarité FTQ (FSTQ) and the Québec government, through the Société générale de financement du Québec (SGF), were to contribute $250 million each to capitalize the fund.

The fund's mission is to support medium and large businesses that have pressing needs for cash resources. The Fonds Élan d'entreprises has invested $52 million since it began its activities.

The government believes, in agreement with the SGF and the FSTQ, that the fund is no longer necessary because of the improvement in the economic situation and the decline in the need for cash resources among businesses.

Consequently, the 2010-2011 Budget provides for the end of investments by the Fonds Élan d'entreprises. As a result, the government will recover the part of its contribution that has not yet been committed, that is, $224 million.

2. MODERN, HIGH-QUALITY INFRASTRUCTURE

2.1 Extensive sports infrastructure

2.1.1 Replacement of freon systems in arenas

In Québec, sports practised on ice, particularly hockey, are of major importance. Québec has more than 400 arenas and sports centres equipped with refrigeration systems which, for the most part, were built in the 1970s and use the two types of freon that were employed at that time, CFC-12 and HCFC-22.

To reduce halocarbon emissions into the atmosphere, these two types of freon are subject to regulations that will gradually restrict their production and use by 2015 and 2020.

— Consequently, major modifications will have to be made at a number of these establishments in the coming years to replace existing freon systems with more environmentally friendly systems.

The cost of replacing refrigeration systems using these two types of freon is approximately $800 000 per establishment.

To address the impact of these environmental regulations, the government will assume 50% of the costs incurred by the municipalities or organizations that own these facilities to modify or replace their freon refrigeration system. The plan will extend over a ten-year period beginning in 2010-2011.

— An initial investment phase, to be completed over the next three years, will help finance the replacement of freon systems.

The other establishments will receive financial assistance under this program in subsequent years.

2.1.2 Institut national du sport du Québec

Our athletes are a great source of national pride and some of our best ambassadors to the world.

So that our athletes can remain competitive and shine even more on the world stage, the 2010-2011 Budget provides for the creation of the Institut national du sport du Québec. The institute, which will be located at the Olympic Stadium, will be both a place where high-performance athletes can train and an organization capable of providing the required services to all of Québec's international athletes in their respective training centres.

Whether it be sports medicine and scientific services, or access to training facilities that meet international standards, the institute will provide support comparable to the best practices in the world.

In addition, the institute will coordinate and support a network of regional training centres that will offer services to athletes who compete internationally.

Funding totalling $24 million is earmarked for this project.

2.1.3 Sports and Physical Activity Development Fund

The Sports and Physical Activity Development Fund, created in June 2006, serves, among other things, to finance the renovation, development and upgrading of sports and recreational facilities, and to provide financial assistance enabling high-performance athletes to have access to more specialized centres.

Additional funding of $209 million will be allocated to the Sports and Physical Activity Development Fund in order to finance the replacement of freon refrigeration systems, the creation of the Institut national du sport du Québec, and other initiatives.

Beginning in 2010-2011 and until 2022-2023, the amount drawn annually from the tobacco tax—currently $30 million to fund authorized investment projects in the amount of $325 million—will be increased by an additional $19 million that will be injected into the fund each year.

TABLE B.1

Sports and Physical Activity Development Fund
(millions of dollars)

		New investments			
	Current situation	**Institut national du sport du Québec**	**Replacement of freon systems, and other initiatives**	**Subtotal**	**Total**
Budget for projects	325	24	185	209	**534**

BALANCING PUBLIC FINANCES TO PROTECT OUR VALUES

3. FURTHER EFFORTS TO CONTROL SPENDING OF PUBLIC BODIES

As a policy direction, the government has decided to take major steps to put the public finances in order and balance the budget by 2013-2014. This considerable challenge cannot be delayed and will require a collective management effort by public bodies as a whole.

All government departments must significantly slow their spending growth as of 2010-2011. Concurrently, all other public bodies must also do their part, as of the next fiscal year, to reduce their operating costs and increase their productivity.

In the 2010-2011 Budget, to carry out the plan to restore fiscal balance, the government therefore provides that all government entities must take steps to cut their spending and increase their productivity.

Concretely, by 2013-2014, the government intends to require public bodies as a whole to deliver savings of up to $530 million.

TABLE B.2

Spending cuts of public bodies
(millions of dollars)

	2010-2011	2011-2012	2012-2013	2013-2014
Spending cuts and productivity gain of commercial government corporations				
- Hydro-Québec	25	100	150	250
- Loto-Québec	5	25	40	50
- Société des alcools du Québec	5	25	40	50
Spending cuts and productivity gain of other public bodies				
- Special funds, non-budget-funded bodies, and other government organizations	20	40	60	80
- Gradual reduction of deficits in the health network	25	50	75	100
TOTAL	**80**	**240**	**365**	**530**

3.1 Spending cuts and productivity gain of large commercial government enterprises

The government's reporting entity encompasses commercial government enterprises such as Hydro-Québec, Loto-Québec and the Société des alcools du Québec (SAQ), of which the government holds 100% of the shares.

TABLE B.3

Summary results of commercial government enterprises
(millions of dollars)

	Hydro-Québec	Loto-Québec	SAQ	Total
Revenues	**12 717**	**3 870**	**2 467**	**19 054**
Expenditures	**9 576**	**2 414**	**1 660**	**13 650**
- Remuneration and operations	4 996	2 299	1 625	**8 920**
- Other expenditures	4 580	115	35	**4 730**

Sources: Annual reports of December 31, 2008 for Hydro-Québec, March 31, 2009 for Loto-Québec and March 28, 2009 for the Société des alcools du Québec.

These three large commercial government enterprises alone account for a combined expenditure budget of $13.7 billion.

Commercial government enterprises must be part of the government's across-the-board effort to reduce costs and increase productivity.

The improved financial results stemming from the measures to optimize the operations of public enterprises will make it possible to increase government revenues without raising the price of the services provided by the enterprises.

❑ Hydro-Québec

Efforts by Hydro-Québec to cut spending, increase productivity and boost exports must enable the enterprise to generate additional profits of $25 million as of 2010-2011, which will increase to $250 million in 2013-2014.

❑ Loto-Québec and the Société des alcools du Québec

Efforts by Loto-Québec and the Société des alcools du Québec to cut spending and increase productivity must enable the enterprises to generate additional profits of $10 million as of 2010-2011, which will increase to $100 million in 2013-2014.

3.2 Spending cuts and productivity gain of other government organizations

❑ Spending cuts of special funds, non-budget-funded bodies and other government organizations

Non-budget-funded bodies and special funds include more than 100 government entities whose mission is to provide goods and services or fund government programs.

The government is asking these organizations to:

— curb their spending growth;

— create productivity gains and generate other administrative savings.

These efforts must yield savings of $20 million as of 2010-2011, up to $80 million in 2013-2014.

❑ Reduction of the deficits in the health and social services network

Despite the *Act to Provide for balanced budgets in the public health and social services network*, which the government passed in 2000, the health and social services network posts annual deficits on the order of $175 million.

Under the government accounting reform of 2007, institutions in the health and social services network and the education network were incorporated into the government reporting entity, and their deficits were consolidated in the government's financial statements. At the time of the accounting reform, the health and social services network had accumulated operating deficits of $1.6 billion.

Subsequent to the reform, the government undertook, in the 2009-2010 Budget, to assume the accumulated deficits of the network's institutions. However, assuming the deficits of the health and social services network will be conditional on achieving budgetary targets over the period from 2010-2011 to 2013-2014.

The government is asking the health and social services network to implement a framework for reviewing budget management processes in order to increase productivity with a view to gradually eliminating annual operating deficits.

The government's target is to shrink the deficit of the institutions in the health and social services network by $25 million in 2010-2011. Reduction efforts must reach $100 million in 2013-2014.

4. COLLECTING ALL GOVERNMENT REVENUES

4.1 New initiatives to fight tax evasion

New measures will be introduced to counter unreported work and tax evasion, in order to recover lost government revenues.

Accordingly, additional funding will be granted to Revenu Québec to bolster tax recovery efforts, and to government departments and agencies involved in the fight against tax evasion in at-risk sectors.

To finance these initiatives as a whole, a total of $30 million in additional funding will be allocated to the Ministère des Finances in 2010-2011 and charged to the Provision to increase any appropriation for revenue initiatives. As a result of these initiatives, $120 million in tax revenues will be recovered as of 2010-2011.

4.1.1 Tax auditing

Additional funding of $8 million will be allocated to Revenu Québec to boost its tax auditing operations.

Revenu Québec will step up its tax audits in all sectors.

Furthermore, with the hiring of more staff for recovery purposes, a larger percentage of the revenues claimed by Revenu Québec can be collected, thereby limiting the government's bad debts.

4.1.2 Intervention in at-risk sectors

The cooperation of the government departments and agencies directly involved in at-risk sectors is crucial to supporting Revenu Québec's intervention.

The players in each sector act within their areas of jurisdiction. The Actions concertées pour contrer les économies souterraines (ACCES) committees were set up to coordinate intervention and thereby optimize tax recovery and bring criminal or penal proceedings against tax evaders.

❑ Construction

Construction and renovation are sectors conducive to unreported work. ACCES construction was created in 2004 to coordinate the action taken by Revenu Québec, the Commission de la construction du Québec, the Régie du bâtiment du Québec and the Commission de la santé et de la sécurité du travail in order to combat unreported work. In addition, the government has played an active role in recent months, announcing a series of measures to eradicate criminal groups and reprehensible industry practices.

To step up the fight, the government will finance new teams in order to increase surveillance on construction sites and conduct more accounting audits. These activities will be aimed at, among other things, detecting companies and individuals who use illegal schemes. Additional funding of $12 million is earmarked for this purpose, including $2 million for the Régie du bâtiment du Québec and $5 million for the Commission de la construction du Québec, raising to $9 million the total funding granted to the latter from the budgetary provision of the Ministère des Finances.

❑ Economic and financial crime

Organized crime is attempting to infiltrate certain sectors of the legal economy, through various stratagems like false invoicing, or through computer-aided illegal acts.

Combating this type of crime is one of the government's priorities. Hence the Actions concertées contre les crimes économiques et financiers (ACCEF) committee, which brings together the Autorité des marchés financiers and government departments—Finances, Revenu and Sécurité publique—as well as police forces and the Director of Criminal and Penal Prosecutions, was set up in 2004. Additional funding of $3 million will be allocated to the activities of the ACCEF committee to train new teams in order to improve detection of, and clamp down on, such crime.

❑ Illicit tobacco trade

The government has implemented a number of initiatives in recent years to combat the illicit tobacco trade, which continues to be a concern because of the estimated $300 million in associated tax losses.

Accordingly, the funding of the activities of the ACCES tabac committee, in which government departments—Sécurité publique, Revenu, Finances, and Santé et des Services sociaux—participate along with police forces and certain federal bodies, will be increased by $2 million in order to wage a more aggressive fight against tobacco smuggling.

5. INCREASING OUR REVENUES TO ENSURE FUNDING FOR PUBLIC SERVICES

5.1 Reserve for the evaluation of the cost of public services

Under the policy for the funding of public services announced in the 2009-2010 Budget, government departments and agencies must establish the cost of services provided to the population. A number of the bodies do not have a precise evaluation of the cost of the public services provided to users, making it difficult to determine user fees. Some government departments and agencies will therefore need management and analysis systems to improve information on the cost of services provided to users.

To encourage government bodies to obtain the evaluation tools required to meet these requirements, a $1.5-million reserve is created in 2010-2011 at the Ministère des Finances to finance part of the implementation costs the departments and agencies will have to assume to establish and track the cost of public services. Funding will come from the Contingency Fund.

6. MAINTAINING OUR SOCIAL SAFETY NET

6.1 Plan to combat poverty

In the coming months, the Minister of Employment and Social Solidarity will unveil the new 2010-2015 government action plan to combat poverty and social exclusion. To support that initiative, the 2010-2011 Budget provides for an additional investment of $1.3 billion for the next five years.

The new measures represent a substantial effort by the government in the fight against poverty. The measures include several advantages in that they:

— provide for compensation for planned tax increases, through the introduction of the solidarity tax credit;

— grant additional funding to the Fonds québécois d'initiatives sociales, in order to bolster collaborative intervention by the various organizations involved;

— continue to develop community and social housing;

— help the regions and Northern Québec, in particular.

TABLE B.4

Investments to combat poverty over five years — 2010-2011 to 2014-2015
(millions of dollars)

	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	Total over 5 years
NEW MEASURES						
Solidarity tax credit: additional amount to compensate low-income households for tax increases	—	75	155	155	155	**540**
Fonds québécois d'initiatives sociales	17	23	25	25	25	**115**
Housing investments						
- Construction of 3 000 social housing units	166	100	107	103	—	**476**
- Construction of 340 dwellings in Nunavik	18	19	21	23	24	**105**
- Additional funding for the implementation of AccèsLogis projects	7	7	—	—	—	**14**
- Other housing assistance measures	46	—	—	—	—	**46**
New measures for seniors						
- Enhancement of the refundable tax credit for home support for elderly persons	5	5	5	5	5	**25**
- Enhancement of the program Soutien aux initiatives visant le respect des aînés	4	4	4	2	2	**16**
TOTAL INVESTMENTS	**263**	**233**	**317**	**313**	**211**	**1 337**

6.1.1 Fonds québécois d'initiatives sociales

In conjunction with the next government action plan to combat poverty and social exclusion, the 2010-2011 Budget provides for an additional investment to support the Fonds québécois d'initiatives sociales.

To that end, additional funding of $7 million in 2010-2011 and $12 million in 2011-2012 will be granted to the Ministère de l'Emploi et de la Solidarité sociale. The funding required for 2010-2011 will come from the Contingency Fund.

6.1.2 Housing investments

To help low-income households obtain better housing and to promote land occupancy, the 2010-2011 Budget provides for investments of $323.4 million in social housing.

LE B.5

ısing investments
ions of dollars)

	Government investments	Financial impact				Number of households
		2010-2011	2011-2012	2012-2013	Total over 3 years	
struction of 3 000 social housing units	210.0	—	—	– 8.3	– 8.3	3 000
struction of 340 dwellings in Nunavik	99.2	– 0.4	– 1.5	– 2.6	– 4.5	340
tional funding for AccèsLogis projects						
nplementation of projects outside large ties	7.5	—	– 0.1	– 0.5	– 0.6	2 200
dditional subsidy in remote regions and mall municipalities	0.8	—	—	– 0.1	– 0.1	400
dditional assistance to promote land ccupancy	5.9	—	– 0.1	– 0.4	– 0.5	240
AL	**323.4**	**– 0.4**	**– 1.7**	**– 11.9**	**– 14.0**	**6 180**

❑ Construction of 3 000 social housing units

The 2010-2011 Budget provides for an investment of $210 million to build 3 000 social housing units under the AccèsLogis Québec program, which is administered by the Société d'habitation du Québec.

❑ Construction of 340 dwellings in Nunavik

The 2010-2011 Budget provides for the construction of 340 social housing units under the renewal of the Agreement Respecting the Implementation of the James Bay and Northern Quebec Agreement Related to Housing in Nunavik for 2010-2015. To that end, additional funding of $400 000 in 2010-2011 and $1.5 million in 2011-2012 will be allocated to the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire. Funding for 2010-2011 will come from the Contingency Fund.

❑ Additional funding for the implementation of AccèsLogis projects

■ Implementation of projects outside large cities

The 2010-2011 Budget provides for an investment of $7.5 million over two years to facilitate social housing construction projects outside the six large cities recognized by AccèsLogis Québec, namely, Montréal, Laval, Longueuil, Québec, Lévis and Gatineau. To that end, the funding of the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire will be increased by $100 000 in 2011-2012.

■ Additional subsidy in remote regions and small municipalities

The 2010-2011 Budget provides for an investment of $800 000 over two years to facilitate the implementation of AccèsLogis Québec projects in remote regions and in small municipalities of fewer than 2 500 inhabitants.

■ Additional assistance to promote land occupancy

The 2010-2011 Budget provides for an investment of $5.9 million over two years to promote land occupancy under the AccèsLogis Québec program. To that end, the funding of the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire will be increased by $100 000 in 2011-2012.

6.1.3 Seniors: enhancement of the program Soutien aux initiatives visant le respect des aînés

To cope with an ageing population, the 2010-2011 Budget provides for the enhancement of the program Soutien aux initiatives visant le respect des aînés (SIRA), in particular to support informal caregivers.

To that end, additional funding of $4 million a year will be granted to the Ministère de la Famille et des Aînés from 2010-2011 to 2012-2013. The funding required for 2010-2011 will come from the Contingency Fund.

LIBERATING THE AMBITIONS OF QUEBECERS

7. MEETING THE DEMOGRAPHIC CHALLENGE

7.1 Increasing participation in the labour market: creation of the Commission nationale sur la participation au marché du travail

In the 2010-2011 Budget, the Government is announcing the creation of the Commission nationale sur la participation au marché du travail, as well as the appointment of Françoise Bertrand and Gilles Demers as co-presidents.[2]

The Commission will be under the responsibility of the Minister of Finance and the Minister of Employment and Social Solidarity, whose mandate includes finding solutions to encourage workers aged 55 to 70 to remain in the labour market.

In the wake of the economic meeting of January 2010, the Commission will play an important role in meeting the demographic challenge. The Commission will be mandated to make proposals to the government concerning means to increase the working population in the context of an aging population. In this context, one of the Commission's priorities will be to analyse the rate of participation of persons age 55 to 70 in the labour in Québec.

The Commission will table an interim report in February 2011. The final report will be tabled in fall 2011.

Given the breadth of its mandate, the Commission will be provided with a research budget of $1 million that it will be able to use to hire recognized experts in fields such as taxation, labour economics, demography and retirement plans. The Commission will also be able to count on the expertise of a team of professionals drawn from the Ministère des Finances, the Ministère de l'Emploi et de la Solidarité sociale and the Régie des rentes du Québec.

To that end, additional funding of $500 000 in 2010-2011 and in 2011-2012 will be granted to the Ministère des Finances. The funding required for 2010-2011 will come from the Contingency Fund.

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2 The mandate of the Commission nationale sur la participation au marché du travail is presented in greater detail in the economic and budgetary action plan.

8. LEVERS TO IMPROVE OUR PERFORMANCE

8.1 Education: vocational and technical training that meets the needs of the work environment

The key to keeping Québec's economy competitive and continuing its development is to provide adequate training to the workers of tomorrow. A qualified, rapidly trained labour force will make it possible to avoid any labour shortages in certain sectors of activity.

To render the economy more competitive, future vocational and technical training graduates must be able to acquire the skills and expertise expected by businesses in an economy facing ever greater competition.

This is why the government is introducing two initiatives to provide for a better match between vocational and technical training and the needs of the labour market:

— $50 million to improve the supply of vocational and technical training in all the regions;

— $25 million to improve the specialized facilities used by vocational and technical training centres and public colleges.

To that end, funding of $5 million in 2010-2011 and $15 million for subsequent years will be allocated to the Ministère de l'Éducation, du Loisir et du Sport. The funding required for 2010-2011 will come from the Contingency Fund.

8.1.1 $50 million to improve the supply of vocational and technical training in all the regions

In furtherance of the regional development plans for the supply of training at the secondary and college level, the government is investing to improve the supply of vocational and technical training.

— This investment, primarily in specialized equipment, will result in the deployment of study programs throughout the regions of Québec, primarily in the sectors of health, educational services and information and communications technologies.

8.1.2 $25 million to meet the new requirements of the work environment

The facilities and technological equipment used by a number of Québec's training programs are no longer adequate for acquiring skills that are in line with the current realities of the labour market.

To provide for a better match between the training offered to students and the requirements of their future careers, the government intends to invest $25 million to update the study programs and modernize the specialized vocational and technical training facilities.

— These sums will enable Québec's school boards and public colleges to acquire the required facilities to meet the needs of vocational and technical training programs.

8.2 A creative and innovative economy: updating and extension of the Québec Research and Innovation Strategy

8.2.1 Pursuing initiatives in research and innovation

In order to maintain a high level of research and innovation activities in Québec, the government is announcing the updating and extension of the Québec Research and Innovation Strategy (QRIS).

Over the next three years, the extension of the QRIS will make it possible to maintain the existing programs, including programs to support technology companies at the seed stage and technological intensification. It will ensure maintenance of the program of on-the-job training bursaries, will finance public research and will support the activities of commercialization and transfer organizations.

To that end, funding will be granted to the Ministère du Développement économique, de l'Innovation et de l'Exportation. Funding of $461 million over three years is already earmarked in the government's expenditure budget, including $35 million that will come from the Contingency Fund in 2010-2011.

The details of the extension of the QRIS will be announced at a later date by the Minister of Economic Development, Innovation and Export Trade.

8.2.2 Catalyst project in the aeronautics sector

To support initiatives for demonstrating technologies designed for environmentally friendly aircraft and to bolster a strategic sector for Québec, the 2010-2011 Budget provides for the implementation of a catalyst project in the aeronautics sector. The purpose of this project is to test concepts developed in universities and research centres in a functional environment thanks to demonstration projects.

To that end, additional funding of $70 million over four years, that is, $10 million in 2010-2011 and $20 million per year in 2011-2012 and subsequent years, will be granted to the Ministère du Développement économique, de l'Innovation et de l'Exportation. For 2010-2011, the funding will come from the Contingency Fund.

Coupled with the $80-million contribution from the aeronautics industry, a total budget of $150 million will make it possible to demonstrate technologies designed for environmentally friendly aircraft.

8.2.3 Catalyst project for revitalization of the pulp and paper industry thanks to green chemistry

To contribute to revitalizing the pulp and paper industry, the 2010-2011 Budget provides for the implementation of a catalyst project enabling the industry to make the shift to green technologies. Under this project, technological research and demonstration activities in the area of biorefining, such as production of prototypes and construction of pilot plants for production of nanocrystalline cellulose or biofuels, will be supported.

To that end, additional funding of $30 million over three years, that is, $10 million per year from 2010-2011 to 2012-2013, will be granted to the Ministère des Ressources naturelles et de la Faune. For 2010-2011, the funding will come from the Contingency Fund.

For 2010-2011, a contribution from the partners will make it possible to create a strong leverage effect and thereby launch biorefining projects. Further contributions from the partners should also be forthcoming as the biorefining projects take shape.

8.3 A competitive business environment

8.3.1 Additional support for exporter SMEs

To foster the capitalization of exporter SMEs, the government will allocate $50 million in commitments to Investissement Québec over three years. This funding will make it possible to provide quasi-equity, in particular in the form of convertible debentures, which may be repaid over ten years.

To that end, additional funding of $12 million over the next three years, that is, $2.3 million in 2010-2011, $4.8 million in 2011-2012 and $4.9 million in 2012-2013, will be granted to the Ministère du Développement économique, de l'Innovation et de l'Exportation. For 2010-2011, funding will come from the Contingency Fund.

8.3.2 $75-million investment fund to support the next generation of farmers

To stimulate entrepreneurship in the agricultural sector and support the next generation of farmers, the Québec government is announcing the creation of a $75-million investment fund for young agricultural entrepreneurs: the Fonds d'investissement pour la relève agricole (FIRA).

Through its mandatary, La Financière agricole du Québec, the government will provide a contribution of $25 million to FIRA. This funding will be supplemented by contributions of $25 million each from Capital régional et coopératif Desjardins and the Fonds de solidarité FTQ.

Over a term of 15 years, FIRA's mission will be to invest in start-ups of farming enterprises and transfers of farming enterprises between unrelated persons for the purpose of launching young entrepreneurs under 40 years of age into farming.

The Minister of Agriculture, Fisheries and Food will announce the details concerning the setting up of the fund at a later date.

The government's participation will be recorded as a government investment and therefore will have no budgetary impact.

8.3.3 Croissance Québec Techno

To aid entrepreneurs who own businesses with a strong technological potential to develop better business practices, the government is announcing the implementation of the Croissance Québec Techno measure. This measure is designed to offer high-level coaching to carefully selected entrepreneurs. These entrepreneurs will attend training sessions on business management given by the MIT Entrepreneurship Center. In addition, coaching activities will be provided to guide the entrepreneurs in their strategic choices for the development and rapid growth of their businesses. Finally, a seminar attended by approximately 200 entrepreneurs will be organized to allow for sharing of the knowledge acquired during their training.

To that end, additional funding of $1.8 million over three years, that is, $600 000 per year in 2010-2011 and subsequent years, will be granted to the Ministère du Développement économique, de l'Innovation et de l'Exportation. For 2010-2011, the funding will come from the Contingency Fund.

8.4 Youth: funding of the Office Québec-Monde pour la jeunesse

In May 2009, the National Assembly of Québec adopted the *Act to establish the Office Québec-Monde pour la jeunesse and to amend various legislative provisions*.

The mission of the Office Québec-Monde pour la jeunesse is to develop relations between the youth of Québec and the youth of territories and countries not covered by the existing youth offices (the Office franco-québécois pour la jeunesse, the Office Québec Wallonie-Bruxelles pour la jeunesse and the Office Québec-Amériques pour la jeunesse).

The Office is charged with establishing contacts with public or private organizations abroad for the purpose of developing, in partnership with those organizations, exchange and cooperation programs that are accessible to young people of all backgrounds thanks to financial assistance measures.

These exchange and cooperation programs may, in particular, take the form of participation by young people from Québec in seminars or on-the-job training periods abroad, as well as receiving young people from abroad in Québec.

The Office Québec-Monde pour la jeunesse thus augments the degree of mobility offered to young people abroad, while also enabling Québec to enhance its relations with foreign countries, particularly in Europe and Asia.

This new Office does not create any additional governmental structures, since its management will be integrated with that of the other youth offices.

In order to cover the start-up costs of the activities of the Office Québec-Monde pour la jeunesse, the government is announcing the granting of $1.5 million in funding for 2010-2011 to the Ministère des Relations internationales. The required funding will come from the Contingency Fund.

9. MONTRÉAL, AN ESSENTIAL COMPONENT IN BALANCED DEVELOPMENT

The Québec economy depends on the contribution of all its regions. Québec relies on its metropolis to position itself on the international stage in cutting-edge, high-value-added sectors.

— In that regard, Montréal has many assets enabling it to attract businesses in cutting-edge sectors, in particular advanced technologies such as the aerospace industry, the life sciences, environmental technologies, information and communications technologies, photonics and multimedia.

— The Montréal region, with its cutting-edge sectors, is an economic hub that benefits all regions of Québec.

Although the economic situation in the Montréal region is improving and the measures in the plan to support jobs and prepare for the economic recovery continue in 2010, recovery will be more difficult in the region because it is where most of the job losses have occurred in recent months. Consequently, the government intends to take steps to accelerate the recovery in one of the prime motors of our economy.

9.1 Support for the economic development of Montréal and Québec City

Considering how actively the cities of Montréal and Québec are working to implement their economic development strategy, and given the role that the metropolis and the national capital play in the economic development of Québec as a whole, the government is extending its support for the development of these cities for another five years. Accordingly, $35 million a year will be allocated to Ville de Montréal for each of the years from 2012-2013 to 2016-2017, and $7 million a year will be allocated to Ville de Québec for the same period. This represents an additional contribution totalling $175 million for Montréal and $35 million for Québec City.

This government funding will assist in the implementation of the Imagining-Building Montréal 2025 plan and will help Québec City fund various initiatives, such as the green districts in Pointe-aux-Lièvres and Estimauville.

As is the case with the $140 million and $25 million in financial assistance granted respectively to Ville de Montréal and Ville de Québec in the 2007-2008 Budget Speech, the additional sums will be paid under agreements signed between the government and those two cities, agreements that will provide for accountability mechanisms.

9.2 Positioning Montréal as a strong financial centre: creation of a round table for the development and advancement of the financial sector

To facilitate and promote the development of Montréal's financial sector, the 2010-2011 Budget provides for the creation of a round table that will bring together the stakeholders in the financial sector and be mandated, among other things, to identify, support and promote promising and innovative initiatives of benefit to the entire sector.

To that end, additional funding of $1 million over five years, that is, $200 000 per year beginning in 2010-2011, will be allocated to the Ministère des Finances. This financial contribution is in addition to that of Montréal's financial sector to ensure the start-up of the round table's activities. For 2010-2011, funding will come from the Contingency Fund.

9.3 Rail shuttle between the Montréal-Trudeau Airport and downtown Montréal

The airport-to-downtown connection is integral to the quality of airport services. Montréal must be provided with a link to its airport, such as exists in many other of the world's great cities. This project was in fact identified as a priority at the 2002 Montréal economic summit.

Thus, the government is announcing that $200 million will be devoted to establishing a rail shuttle to provide a dedicated high-frequency express link between the Montréal-Trudeau Airport terminal and downtown. This project will improve access to the airport for travellers and for workers who commute to and from the airport territory on a daily basis. The project, to be realized by Aéroports de Montréal, will reduce travel time for users and ease traffic congestion on the highway network.

9.4 Additional revenues for the metropolitan communities of Montréal and Québec for public transit

In a context where the metropolitan regions have special needs in regard to funding for mass transit, the government is prepared to authorize, beginning in 2010-2011:

—a new increase in the gasoline tax rate in the Montréal region of no more than 1.5 cents per litre devoted to funding public transit, if the Communauté métropolitaine de Montréal (CMM) so requests;

—an increase in the gasoline tax rate of no more than 1.5 cents per litre devoted to public transit in the territory of the Communauté métropolitaine de Québec (CMQ), if it so requests.

TABLE B.6

Revenues expected from an increase in the gasoline tax rate
(millions of dollars)

	0.5¢/l	1¢/l	1.5¢/l
Communauté métropolitaine de Montréal	17.7	35.3	53.0
Communauté métropolitaine de Québec	3.5	7.0	10.5

In the Montréal region, the revenues will be paid to the Agence métropolitaine de transport (AMT), as is the case for the increase of 1.5 cent per litre that is already levied in its territory. The AMT will distribute those sums to the transit organizations according to the apportionment rules approved by the CMM on February 25, 2010.

In the Québec region, the sums will be paid to the Fonds des contributions des automobilistes au transport en commun, as is the case for the registration duties dedicated to public transit. The sums will be distributed to the transit organizations according to the apportionment rules approved by the CMQ.

The revenues will be distributed to the public transit authorities, intermunicipal boards of transport, regional public transport boards and municipal and intermunicipal transit bodies present within the territories of the CMM and the CMQ, which will be required to use those revenues to finance their operating and investment expenditures. These new revenues must not be used to reduce the share borne by users and municipalities in the funding of public transit.

10. BUILDING A GREEN ECONOMY

10.1 Industrial policy for the development of an electric vehicle sector

Because of their environmental advantage, electric vehicles will continue to enjoy great popularity around the world in the coming years. The development of an electric vehicle sector thus represents a promising opportunity for Québec businesses. The fact that Québec contains in its territory a cluster of businesses and research centres with cutting-edge expertise in the field will enable Québec to position itself advantageously in this expanding industry.

In this context, the government, acting in partnership with the industry, intends to take steps to ensure that Québec businesses will be able to participate fully in the worldwide race to develop electric vehicles. The 2010-2011 Budget provides for a soon-to-be-launched action plan for electric vehicles, which will include measures aimed at developing an electric vehicle sector in Québec.

The details will be announced by fall 2010 by the Minister of Natural Resources and Wildlife, the Minister of Economic Development, Innovation and Export Trade and the Minister of Sustainable Development, Environment and Parks. Funding for the action plan will come partly from the Green Fund and partly from the budgets of the departments involved, except for the sums required for developing an electric bus in Québec.

10.1.1 Developing an electric bus in Québec

In order to consolidate the expertise of companies participating in the development of electrified transport, the 2010-2011 Budget provides for a project aimed at developing a fully electric bus. The project will allow for the design, development and demonstration of a prototype of an electric bus that will have export potential, thereby helping to reduce greenhouse gas (GHG) emissions in Québec and throughout the world.

To that end, additional funding of $30 million over three years, that is, $8 million in 2010-2011, $10 million in 2011-2012 and $12 million in 2012-1013, will be granted to the Ministère du Développement économique, de l'Innovation et de l'Exportation. For 2010-2011, funding will come from the Contingency Fund.

Coupled with the $30-million contribution from the companies participating in the project, a total budget of $60 million will be devoted to the development of an electric bus.

10.2 Encouraging the marketing of products that have obtained carbon footprint certification

In conjunction with the Copenhagen Climate Conference, the Québec government announced its intention to cut GHG emissions in Québec by 20% from 1990 levels no later than 2020. To achieve this objective, GHG emissions should be accounted for in the product production cycle.

To raise awareness among the population and businesses of the importance of limiting CO_2 emissions, the government is introducing a new program to support Québec companies seeking to market products with a certified carbon footprint. This program will target SMEs and will provide for a 50% reimbursement of marketing expenses incurred, up to $150 000 per business.

The details of the program will be announced at a later date by the Minister of Economic Development, Innovation and Export Trade. A budget of $24 million over three years will be devoted to this initiative.

To that end, additional funding of $3 million in 2010-2011, $8 million in 2011-2012 and $13 million in 2012-2013, will be granted to the Ministère du Développement économique, de l'Innovation et de l'Exportation. For 2010-2011, funding will come from the Contingency Fund.

10.3 Financing the creation of a data bank on product life cycles

To equip Québec with an internationally recognized environmental assessment tool, the 2010-2011 Budget provides for a $1.5-million investment over three years for the creation of a data bank on life cycle analysis.

This data bank on life cycle analysis will make it possible to produce and quantify the complete ecological balance sheet for a product, a technology or a service, from extraction of raw materials to end-of-life processing. To do so, the data bank will take into account more than a dozen indicators, including GHG emissions.

To that end, $500 000 in additional funding in 2010-2011 and in 2011-2012 will be granted to the Ministère du Développement durable, de l'Environnement et des Parcs. For 2010-2011, the required funding will come from the Contingency Fund.

10.4 Extending and improving the ClimatSol program

The Ministère du Développement durable, de l'Environnement et des Parcs introduced the ClimatSol program in 2007 to help municipalities rehabilitate contaminated sites located in their territory.

In line with efforts to promote sustainable development, ClimatSol's primary goal is to create conditions that will promote the integration into development projects targeting such sites of elements having real and measurable consequences in reducing or preventing GHG emissions and on the energy efficiency of buildings. This program thus contributes to the fight against climate change.

With an initial budget of $50 million, the program was slated to end on March 31, 2010. To date, $28 million in financial assistance has been provided to the municipalities, with the result that $22 million is still available, including $13 million for Ville de Montréal and $9 million for the other municipalities of Québec. Ville de Québec has used all the sums allocated to it.

Considering that it is worthwhile to continue supporting the municipalities' decontamination efforts, the Québec government has decided to extend the ClimatSol program for five years, until March 31, 2015.

This extension, along with the easing of program requirements, will enable Ville de Montréal, among others, to carry out four priority projects for the consolidation of its urban fabric:

— the Brenntag and Canada Malting site in the borough of Sud-Ouest;

— the Namur–Jean-Talon sector in the borough of Côte-des-Neiges–Notre-Dame-de-Grâce;

— the Dominion Bridge site in the borough of Lachine;

— the Albert-Hudon site in the borough of Montréal-Nord.

The government will also offer Ville de Québec $10 million in additional financial assistance to help it complete two projects that will consolidate its downtown area:

— the Pointe-aux-Lièvres site;

— the Estimauville site.

To that end, the funding of the Ministère du Développement durable, de l'Environnement et des Parcs will be increased by $2 million per year as of 2010-2011. For 2010-2011, funding will come from the Contingency Fund.

11. SUSTAINABLE AND RESPONSIBLE MANAGEMENT OF OUR RESOURCES

11.1 Initiatives to deploy the Northern Plan

11.1.1 Development and implementation of the Northern Plan

❑ Coordination of the Northern Plan approach

To ensure the success of the Northern Plan approach, the Ministère des Ressources naturelles et de la Faune will coordinate the work of the partners and various government representatives concerned. In addition, it will ensure follow-up of the work of the partner issue tables, whose mandate is to advise the Minister responsible for the Northern Plan on the strategic choices that must be made throughout the preparation and implementation of this plan for the sustainable development of Northern Québec.

To that end, additional funding of $7.5 million over three years, that is, $2.5 million per year beginning in 2010-2011, will be allocated to the Ministère des Ressources naturelles et de la Faune. For 2010-2011, the funds will come from the Contingency Fund.

❑ Enhanced knowledge of northern geography

To gain better knowledge of the geography of northern areas, the government will devote $4.5 million over three years to the improvement of high-resolution satellite images of these areas and the preparation of topographical mapping (lakes, rivers, terrain, etc.) of the territory.

To that end, additional funding of $1.5 million, beginning in 2010-2011, will be granted annually to the Ministère des Ressources naturelles et de la Faune. For 2010-2011, funding will come from the Contingency Fund.

❑ Creation of the Fonds pour la réalisation d'initiatives régionales et locales

To support and promote regional or local projects that do not qualify for assistance under existing programs, the government is announcing the creation of the Fonds pour la réalisation d'initiatives régionales et locales.

The fund will have a $6-million budget over the next three years and will be used to implement initiatives in the territory covered by the Northern Plan.

To than end, additional funding of $2 million, beginning in 2010-2011, will be granted annually to the Ministère des Ressources naturelles et de la Faune. For 2010-2011, funding will come from the Contingency Fund.

11.1.2 Reforestation of Northern Québec

Northern Québec will have a role to play in the collective effort to reduce GHG emissions in Québec. In fact, the government pledged to increase the forest cover in Northern Québec by setting the target of planting 100 million trees on the territory in the years to come. Regeneration of forests in Northern Québec will lead to the capture of thousands of tonnes of GHG emissions annually.

To continue efforts to increase forest cover in Northern Québec, an amount of $18 million over three years will be devoted to the production of seedlings and silvicultural work.

To that end, the Ministère des Ressources naturelles et de la Faune will be granted additional funding of $10 million in 2010-2011, including $2 million for the production of seedlings and $8 million for silvicultural work north of the 49th parallel under the Silvicultural Investment Program. For the following two years, additional funding of $4 million per year will be granted for the production of seedlings. For 2010-2011, funding will come from the Contingency Fund.

11.1.3 Support for tourism development in Northern Québec

As part of the elaboration of the Northern Plan, the government is announcing financial assistance that will lay the groundwork for making the territory north of the 49th parallel a new, world-class tourism destination.

To that end, the 2010-2011 Budget provides for the injection of $6 million over three years to support projects with a structuring impact, in order to enhance the tourism supply in the territory covered by the Northern Plan. This amount will make it possible to support projects designed to:

— enhance accommodation infrastructures by consolidating the existing facilities and creating new ones adapted to the northern regions;

— improve the outfitters sector, in particular its infrastructure and facilities aimed at product diversification with a view to attracting new clienteles and extending the operating season;

— develop infrastructure, accommodation buildings and attractions for tourists and cruise-takers in northern regions.

Projects will be selected in collaboration with partners in the sector based on the economic and social spin-off for local communities and the principles of sustainable development.

The projects will be funded in partnership with the federal government and the community, taking into account local and regional characteristics. A contribution of $6 million from the federal government and $3 million from local and regional communities would make it possible to create a strong leverage effect and accelerate development in this promising sector for the communities living in this territory.

To that end, additional funding of $2 million per year from 2010-2011 to 2012-2013 will be granted to the Ministère du Tourisme. The funding required for 2010-2011 will come from the Contingency Fund.

The terms of this measure will be defined at a later date by the Minister of Tourism.

11.1.4 Continuation of the creation of five Québec national parks

In the previous two budgets, the government announced investments totalling $32 million over four years for the creation of five northern national parks.

These parks will host exceptional natural habitats and will be among the largest in Québec's network of national parks. Their creation will contribute significantly to the growth of ecotourism and adventure tourism in Northern Québec and preserve the territory for future generations.

The creation of the parks will also help the government reach its objective of excluding 50% of the territory covered by the Northern Plan from all industrial activity.

Thus, to continue the work necessary for their creation, additional funding of $7.5 million over three years, that is, $2.5 million per year beginning in 2010-2011, will be granted to the Ministère du Développement durable, de l'Environnement et des Parcs. For 2010-2011, funding will come from the Contingency Fund.

11.1.5 Enhanced environmental and biological knowledge of the Northern Plan territory

The success of the Northern Plan approach must be based on a sound knowledge of the biodiversity and the ecosystems in the North. Improved knowledge in these areas will result in better planning for the development of the Northern Plan territory.

To gain more knowledge of the North, the government will allocate $7.5 million over the next three years for the development and implementation of a portal dedicated to the territory.

To that end, additional funding of $2.5 million per year beginning in 2010-2011 will be granted to the Ministère du Développement durable, de l'Environnement et des Parcs. For 2010-2011, funding will come from the Contingency Fund.

11.2 Temporary assistance for wind-power projects

The financial crisis has had a substantial impact on the liquidities available on financial markets. This could affect the completion and the operation of certain projects for wind-power parks scheduled to be established as a result of calls for tenders by Hydro-Québec and could jeopardize attainment of the goal of 4 000 megawatts under the Québec Energy Strategy 2006-2015.

To offset certain effects of the financial crisis, the government is announcing the creation of a temporary assistance program for promoters of wind-power parks scheduled to be built from 2010 to 2012. To qualify for assistance, promoters must provide the government with sufficient guarantees, particularly through their parent company or by means of security furnished by established institutions, so as to minimize the costs of government intervention.

To that end, $15 million in additional funding in 2010-2011 and 2011-2012 will be granted to the Ministère du Développement économique, de l'Innovation et de l'Exportation. For 2010-2011, the funding will come from the Contingency Fund.

12. A DYNAMIC CULTURE

12.1 Promotion of artists on the world stage

In recent years, the federal government eliminated the PromArt and Trade Routes programs, both of which were aimed at bringing cultural products to an international audience.

To mitigate the impact of federal funding cuts, the Québec government implemented, as part of its 2009-2010 Budget, a special measure to support the promotion of Québec artists on the world stage, under which $3 million was granted to the Ministère de la Culture, des Communications et de la Condition féminine for 2009-2010.

That assistance helped individuals, businesses or cultural and artistic organizations to improve their capabilities to export their work and penetrate international markets.

Considering the uncertainty of federal government participation, and given the importance for Québec artists of obtaining government support for their international visibility and their efforts to develop markets, the Québec government wishes to renew this program for another three years.

Thus, additional funding of $9 million over three years, that is, $3 million per year beginning in 2010-2011, will be granted to the Ministère de la Culture, des Communications et de la Condition féminine.

12.2 Additional contribution for the Société de développement des entreprises culturelles

The Société de développement des entreprises culturelles (SODEC) has a budget of approximately $20 million to be used to provide loans or loan guarantees to cultural businesses. The financial crisis has had repercussions in Québec's cultural sector, which has experienced a decline in funding from conventional sources. The sector's reliance on SODEC has thus increased.

However, SODEC does not have the necessary funds to respond to these needs. In order to develop and increase its funding activities so as to satisfy the needs of its clientele, the government is announcing the immediate transfer to SODEC of $10 million in the form of a loan or advance, the terms of which are to be agreed upon by the Ministère des Finances, the Ministère de la Culture, des Communications et de la Condition féminine and SODEC.

However, if justified by the needs, this additional amount could be as much as $30 million. In that case, SODEC would be provided with a total budget of $50 million to make loans or loan guarantees to cultural businesses.

12.3 Support for the Orchestre symphonique de Montréal and cultural organizations

Culture is key to a society's development. The governments must invest in it and support it regardless of the economic context.

Cultural activities such as theatre, shows and other performing arts are among the first spending cuts in an economic downturn.

12.3.1 Support for the Orchestre symphonique de Montréal

A star in the firmament of Québec culture, the Orchestre symphonique de Montréal (OSM) is an artistic organization of international prestige which each year showcases the greatest names in symphonic music from Canada and around the world. A professional organization supporting innovation and excellence, the OSM continues to play its social and institutional role as it invests in the development of symphonic and classical music in all its forms. In order to durably consolidate the OSM's financial situation so that it can fulfil its mission of promoting the symphonic arts more broadly in Québec and around the world, Loto-Québec will provide it with financial support of $10 million in 2010-2011 and $8.5 million annually in subsequent years.

Under the terms of the agreement to be entered into by the parties, the amounts will be paid by Loto-Québec to the OSM, through a specified purpose account under the responsibility of the Ministère de la Culture, des Communications et de la Condition féminine.

12.3.2 Financing of new cultural initiatives

The government funding of $7.1 million that was previously earmarked for the OSM can therefore be redirected to other cultural initiatives for the duration of the agreement. With the amount thus freed-up, budgets can be allocated to the Conseil des arts et des lettres du Québec (CALQ) and the Ministère de la Culture, des Communications et de la Condition féminine to finance specific projects.

Thus, the amount of $3.7 million made available to the CALQ will be used to provide funding that will be reserved for Québec's symphony and chamber orchestras, Les Grands Ballets Canadiens de Montréal, L'Opéra de Montréal, regional agreements with the regional conferences of elected officers (CREs) to support artists and organizations in all the regions, as well as other organizations that receive assistance from the CALQ.

Similarly, $3.4 million will be set aside for the Ministère de la Culture, des Communications et de la Condition féminine to contribute to funding for Québec City's Festival d'art lyrique, Montréal's Festival international du cirque, arts schools and struggling museums.

TABLE B.7

Reallocation of amounts previously dedicated to the Orchestre symphonique de Montréal
(millions of dollars)

	2010–2011
Conseil des arts et des lettres	
– Symphony and chamber orchestras	1.3
– Grands Ballets Canadiens de Montréal	0.5
– Opéra de Montréal	0.4
– Regional agreements	0.8
– Support for organizations	0.7
Subtotal	**3.7**
Ministère de la Culture, des Communications et de la Condition féminine	
– Festival d'art lyrique, Québec City	0.9
– Festival international du cirque, Montréal	1.0
– Arts schools	1.0
– Struggling museums	0.5
Subtotal	**3.4**
TOTAL	**7.1**

12.4 Support for the Institut national de l'image et du son

The Institut national de l'image et du son (INIS) is a non-profit professional training centre specialized in film, television and interactive media.

The INIS enables student designers, screenwriters, authors, directors and producers of audiovisual and multimedia content to learn the different aspects of their profession. It also supports working professionals who want to acquire new skills or master new tools.

The only francophone centre of its kind in Canada, the INIS promotes national and international exchanges as well as cultural diversity in audiovisual training.

To help the Institut national de l'image et du son fulfil its mission, the government is granting it financial support. To that end, additional funding of $3 million over three years, that is, $1 million per year beginning in 2010-2011, will be granted to the Ministère de la Culture, des Communications et de la Condition féminine.

12.5 Conversion of the Wilder Building to cultural uses

The year 2011 will mark the 50th anniversary of the creation of the Ministère de la Culture, des Communications et de la Condition féminine. The government wishes to commemorate this event, given the key role played by the department in the series of social, economic and cultural transformations that marked the history of Québec during the Quiet Revolution.

Accordingly, the government is announcing the renovation of the Wilder Building, which will be able to house cultural organizations, as well as offices of the Ministère de la Culture, des Communications et de la Condition féminine. The renovation of this building will contribute to the cultural vibrancy of the Quartier des spectacles in Montréal.

This renovation project will be under the responsibility of the Société immobilière du Québec. The Minister of Culture, Communications and Status of Women and the Minister of Government Services will soon announce the details of this project.

13. Other measures

13.1 Société des établissements de plein air du Québec

13.1.1 Investments to develop the territories and increase the accommodation capacity

As part of its 2007-2012 action plan, the Société des établissements de plein air du Québec (Sépaq) has identified projects intended to develop the territories that it manages and meet the growing demand for accommodations at cottages and campgrounds in parks and wildlife reserves. The projects selected total $30 million.

To that end, Sépaq's capital stock will be increased, particularly for the purpose of enabling it to carry out this investment plan.

13.1.2 Revision of admission fees to the national parks

In recent years, Sépaq has increased the level and the quality of the services it offers its clientele. Funding for these improvements was made possible by an increase in the contribution by park users. This policy has resulted in an increased number of visitors to the national parks and higher client satisfaction rates.

Admission fees to the national parks are set by government regulation under the *Parks Act*, while Sépaq itself sets the fees for the services it offers.

Access fees to the national parks under the responsibility of Sépaq have been frozen since they were introduced in 2001. To deal with the growing costs of maintenance and development in the parks, access fees must be revised.

The Québec government is announcing that it will authorize Sépaq to revise the park access fees. By way of illustration, the daily access fee for an adult will increase from $3.50 to $5.50 in 2010-2011. This increase will free up nearly $3 million in additional revenues annually. The additional revenues will be reinvested entirely in maintaining quality user services, while also ensuring that fees remain competitive. They will make it possible to cover part of the shortfall between the current fees and the costs associated with access to the parks.

The Minister of Sustainable Development, Environment and Parks will set policies for Sépaq and indicate the proposed changes in the fee schedule.

Section C

Financial Impact of the Measures in the 2010-2011 Budget

The government's action plan: cash resources injected into Québec's economy in 2009 and 2010 –2010-2011 Budget[1]
(millions of dollars)

	Amount incurred in 2009	Amount forecast in 2010	Total over two years
1. Additional immediate actions to support businesses and workers	1 896	2 131	4 027
2. Invest in public infrastructure	3 952	4 279	8 230
3. Support households, especially families and seniors	365	480	845
4. Stimulate investment by reducing the corporate tax burden	330	729	1 059
5. Prepare Québec for economic recovery	261	585	846
TOTAL	**6 803**	**8 204**	**15 008**

Note: Since figures are rounded, they may not add up to the totals shown.
1 Including the cash resources associated with the measures presented in Information Bulletins 2009-4, 2009-8 and 2010-3 and the cash resources associated the measures in the 2010-2011 Budget aimed at solidifying recovery.

Financial impact of the measures in the 2010-2011 Budget
(million of dollars)

	Financial impact for the government		
	2010-2011	**2011-2012**	**2012-2013**
A. REVENUE MEASURES[1]			
1. SOLIDIFYING RECOVERY			
1.1 Continuation of the action plan			
Support for the forest industry			
Extension of the refundable tax credit for the construction and major repair of public access roads and bridges in forest areas	—	– 100.0	– 87.0
1.2 Modern, high-quality infrastructure			
Extensive sports infrastructure			
Sports and Physical Activity Development Fund	– 19.0	– 19.0	– 19.0
Better infrastructure funding			
Increase of 1 cent per litre in the fuel tax on April 1, of each year, from 2010 to 2013	120.0	240.0	360.0
Subtotal	**101.0**	**221.0**	**341.0**
Subtotal	**101.0**	**121.0**	**254.0**

Financial impact of the measures in the 2010-2011 Budget (continued)
(millions of dollars)

	Financial impact for the government		
	2010-2011	**2011-2012**	**2012-2013**
2. BALANCING PUBLIC FINANCES TO PROTECT OUR VALUES			
2.1 Collecting all government revenues			
Additional revenue thanks to the creation of the Agence du revenu du Québec and to new initiatives to fight tax evasion and avoidance	120.0	255.0	275.0
2.2 Increasing our revenues to ensure funding for public services			
Additional 1% rise in the QST on January 1, 2012	—	400.0	1 500.0
Improvement to the QST rebate regarding new residential units	– 8.0	– 35.0	– 40.0
Temporary increase in the compensatory tax on financial institutions	112.0	115.0	120.0
Revision of the mining duties regime	32.0	39.0	57.0
Subtotal	**136.0**	**519.0**	**1 637.0**
2.3 Maintaining our social safety net			
Compensation for tax increases			
New solidarity tax credit (net impact on financial framework)	—	—	– 260.0
Plan to combat poverty			
Enhancement of the refundable tax credit for home support for elderly persons	– 5.0	– 5.0	– 5.0
Subtotal	**– 5.0**	**– 5.0**	**– 265.0**
Subtotal	**251.0**	**769.0**	**1 647.0**

Financial impact of the measures in the 2010-2011 Budget (continued)

(millions of dollars)

	Financial impact for the government		
	2010-2011	2011-2012	2012-2013
3. LIBERATING THE AMBITIONS OF QUEBECERS			
3.1 Levers to improve our performance			
A competitive business environment			
Support for small-scale producers of alcoholic beverages	– 0.1	– 0.1	– 0.2
3.2 Montréal, an essential component in balanced development			
Positioning Montréal as a strong financial centre			
Reform of tax assistance for international financial centres (IFCs)	– 2.3	– 7.2	– 4.5
3.3 Building a green economy			
Fostering a "green shift" in the heavy vehicle fleet			
– Increase from 40% to 60% in the capital cost allowance rate for trucks and tractors used for hauling freight	– 1.7	– 3.1	– 3.7
– Additional deduction of 85% of the capital cost allowance for freight vehicles fuelled by liquefied natural gas, acquired before 2016	– 0.1	– 0.6	– 1.2
Accelerated capital cost allowance for the production of clean energy	—	—	– 0.1
Subtotal	**– 1.8**	**– 3.7**	**– 5.0**
3.4 A dynamic culture			
Support for the Orchestre symphonique de Montréal and cultural organizations	– 10.0	– 8.5	– 8.5
Improvement to the tax credit for film dubbing	– 0.3	– 0.5	– 0.5
Broadening of the tax credit for the production of multimedia titles			
– Convergence of the video game and digital animation industries	– 1.0	– 2.0	– 2.0
– Enhancement of assistance for video games that are already commercialized	– 0.5	– 1.0	– 1.0
Subtotal	**– 11.8**	**– 12.0**	**– 12.0**
Subtotal	**– 16.0**	**– 23.0**	**– 21.7**

Financial impact of the measures in the 2010-2011 Budget (continued)
(millions of dollars)

	Financial impact for the government		
	2010-2011	**2011-2012**	**2012-2013**
4. OTHER REVENUE MEASURES			
Accelerated capital cost allowance for satellite and cable set-top boxes	– 2.0	– 2.0	– 2.0
Change in the definition of taxable Québec property to foster venture capital investments	– 3.3	– 2.8	– 2.8
Employee stock options	13.5	15.5	16.0
Rollover of the proceeds of an RRSP to an RDSP	—	– 0.6	– 0.6
Social security benefits received from the United States	– 0.3	– 0.3	– 0.3
Subtotal	**7.9**	**9.8**	**10.3**
IMPACT OF REVENUE MEASURES	**343.9**	**876.8**	**1 889.6**

Note: A negative entry indicates a cost for the government.
1 Most of these measures are discussed in the economic and budgetary action plan.

Solidarity tax credit
(millions of dollars)

	Financial impact for the government		
	2010-2011	**2011-2012**	**2012-2013**
Solidarity tax credit	—	**– 1 045.0**	**– 1 350.0**
Replaces and enhances the:			
- Property tax refund	—	325.0	340.0
- QST tax credit	—	467.0	497.0
- Tax credit for individuals living in a northern village	—	3.0	3.0
Additional compensation for tax increases	—	**– 250.0**	**– 510.0**
- Increase in the QST credit announced in the 2009-2010 Budget	—	250.0	250.0
NET IMPACT ON FINANCIAL FRAMEWORK	—	—	**– 260.0**

Financial impact of the measures in the 2010-2011 Budget

(millions of dollars)

	Financial impact for the government		
	2010-2011	2011-2012	2012-2013
B. PROGRAM SPENDING MEASURES[1]			
1. SOLIDIFYING RECOVERY			
1.1 Continuation of the action plan			
Plan Emploi Métropole	– 10.0	– 10.0	—
Support for the forest industry			
– Financing for the production of seedlings	– 25.6	—	—
– Extension of the silvicultural investment program	– 14.9	—	—
– Protecting forests	– 10.0	—	—
Gaspésie–Îles-de-la-Madeleine development strategy	– 6.0	– 6.0	– 6.0
Subtotal	**– 66.5**	**– 16.0**	**– 6.0**
2. BALANCING PUBLIC FINANCES TO PROTECT OUR VALUES			
2.1 Collecting all government revenues			
New initiatives to fight tax evasion and avoidance	– 30.0	– 35.0	– 40.0
2.2 Increasing our revenues to ensure funding for public services			
Reserve for the evaluation of the cost of public services	– 1.5	—	—
2.3 Maintaining our social safety net			
Plan to combat poverty			
Fonds québécois d'initiatives sociales	– 7.0	– 12.0	– 25.0
Housing investments			
– Construction of 3 000 social housing units	—	—	– 8.3
– Construction of 340 dwellings in Nunavik	– 0.4	– 1.5	– 2.6
– Encouraging the implementation of projects outside large cities	—	– 0.1	– 0.5
– Additional subsidy in remote regions and small municipalities	—	—	– 0.1
– Additional assistance to promote land occupancy	—	– 0.1	– 0.4
Seniors: enhancement of the program Soutien aux initiatives visant le respect des aînés (SIRA)	– 4.0	– 4.0	– 4.0
Subtotal	**– 11.4**	**– 17.7**	**– 40.9**
Subtotal	**– 42.9**	**– 52.7**	**– 80.9**

Financial impact of the measures in the 2010-2011 Budget (continued)
(millions of dollars)

	Financial impact for the government		
	2010-2011	2011-2012	2012-2013
3. LIBERATING THE AMBITIONS OF QUEBECERS			
3.1 Meeting the demographic challenge			
Increasing participation in the labour market			
Commission nationale sur la participation au marché du travail	– 0.5	– 0.5	—
Subtotal	**– 0.5**	**– 0.5**	**—**
3.2 Levers to improve our performance			
Education			
Vocational and technical training that meets the needs of the work environment	– 5.0	– 15.0	– 15.0
A creative and innovative economy			
Updating and extension for three years of the Québec Research and Innovation Strategy (QRIS)			
– Pursuing initiatives in research and innovation	– 115.4	– 171.4	– 173.8
– Catalyst projects			
• Green aircraft	– 10.0	– 20.0	– 20.0
• Green chemistry	– 10.0	– 10.0	– 10.0
A competitive business environment			
Additional support for exporter SMEs	– 2.3	– 4.8	– 4.9
Croissance Québec Techno	– 0.6	– 0.6	– 0.6
Youth			
Funding of the Office Québec-Monde pour la jeunesse	– 1.5	—	—
Subtotal	**– 144.8**	**– 221.8**	**– 224.3**
3.3 Montréal, an essential component in balanced development			
Support for the economic development of Montréal and Québec City	—	—	– 42.0
Positioning Montréal as a strong financial centre			
Creation of a round table for the development and advancement of the financial sector	– 0.2	– 0.2	– 0.2
Subtotal	**– 0.2**	**– 0.2**	**– 42.2**

Financial impact of the measures in the 2010-2011 Budget (continued)
(millions of dollars)

	Financial impact for the government		
	2010-2011	**2011-2012**	**2012-2013**
3.4 Building a green economy			
Industrial policy for the development of an electric vehicle sector	—	—	—
- Developing an electric bus in Québec	– 8.0	– 10.0	– 12.0
Encouraging the marketing of products that have obtained carbon footprint certification	– 3.0	– 8.0	– 13.0
Financing the creation of a data bank on product life cycles	– 0.5	– 0.5	– 0.5
Extending and improving the ClimatSol program	– 2.0	– 2.0	– 2.0
Subtotal	**– 13.5**	**– 20.5**	**– 27.5**
3.5 Sustainable and responsible management of our resources			
Initiatives to deploy the Northern Plan			
- Development and implementation of the Northern Plan	– 6.0	– 6.0	– 6.0
- Reforestation of Northern Québec	– 10.0	– 4.0	– 4.0
- Support for tourism development in Northern Québec	– 2.0	– 2.0	– 2.0
- Continuation of the creation of five Québec national parks	– 2.5	– 2.5	– 2.5
- Enhanced environmental and biological knowledge of the Northern Plan territory	– 2.5	– 2.5	– 2.5
Temporary assistance for wind-power projects	– 15.0	– 15.0	—
Subtotal	**– 38.0**	**– 32.0**	**– 17.0**
3.6 A dynamic culture			
Promotion of artists on the world stage	– 3.0	– 3.0	– 3.0
Support for the Institut national de l'image et du son	– 1.0	– 1.0	– 1.0
Conversion of the Wilder Building to cultural uses	—	—	—
Subtotal	**– 4.0**	**– 4.0**	**– 4.0**
Subtotal	**– 201.0**	**– 279.0**	**– 315.0**
4. FUNDING FOR THE QRIS ALREADY EARMARKED IN THE GOVERNMENT'S EXPENDITURE BUDGET	**115.4**	**128.4**	**129.8**
IMPACT OF PROGRAM SPENDING MEASURES	**– 195.0**	**– 219.3**	**– 272.1**

Note: A negative entry indicates a cost for the government.
1 Most of these measures are discussed in the economic and budgetary action plan.

Financial impact of the measures in the 2010-2011 Budget

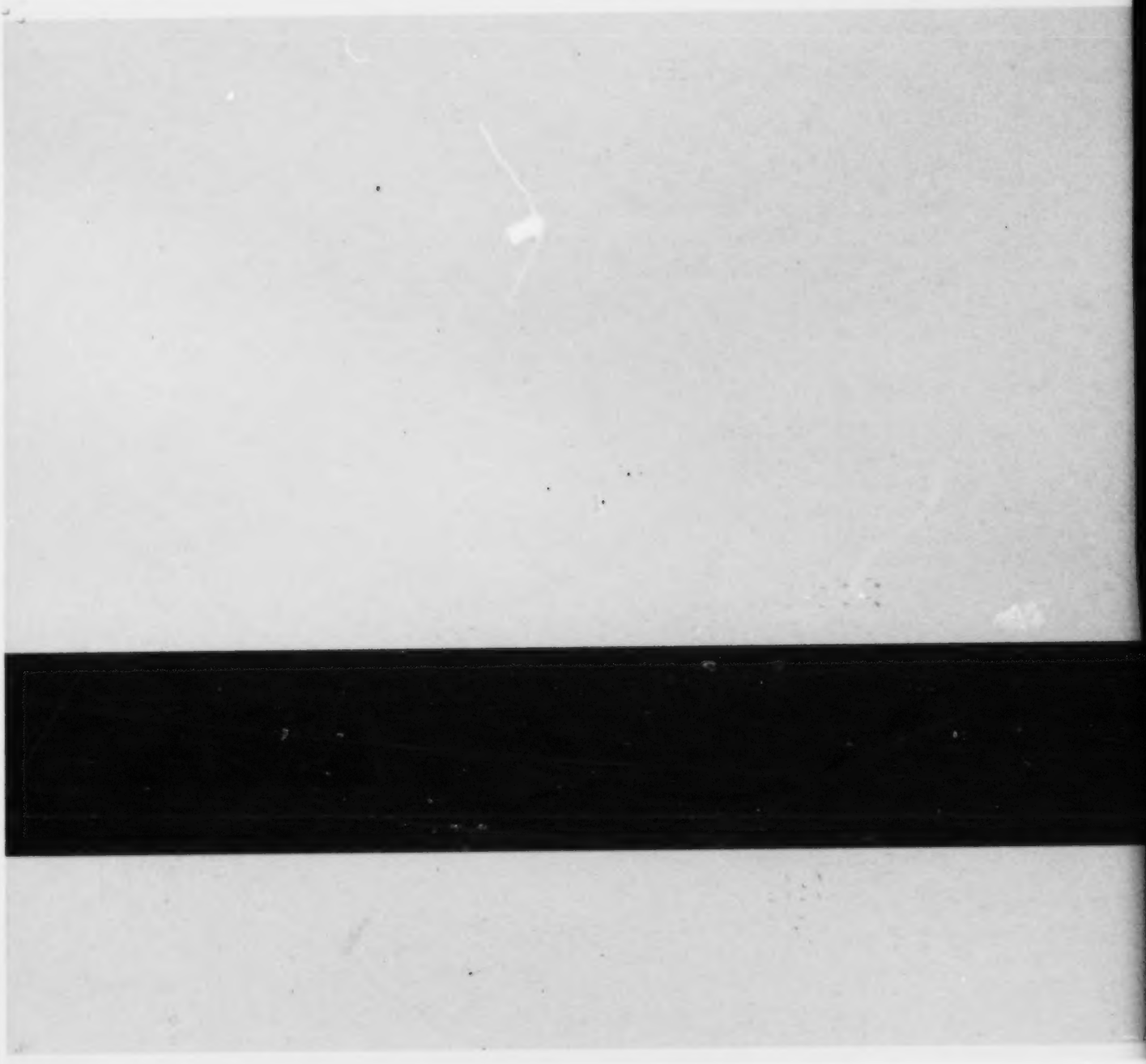
(millions of dollars)

	Financial impact for the government		
	2010-2011	2011-2012	2012-2013
C. MEASURES AFFECTING THE GOVERNMENT'S DEBT SERVICE AND THE RESULTS OF CONSOLIDATED ENTITIES[1]			
1. SOLIDIFYING RECOVERY			
1.1 Continuation of the action plan			
End of investments by the $500-million emergency fund, Fonds Élan d'entreprises[2]	11.0	11.0	11.0
Subtotal	**11.0**	**11.0**	**11.0**
2. BALANCING PUBLIC FINANCES TO PROTECT OUR VALUES			
2.1 Further efforts to control spending of public bodies			
Hydro-Québec	25.0	100.0	150.0
Loto-Québec	5.0	25.0	40.0
Société des alcools du Québec	5.0	25.0	40.0
Other government organizations	45.0	90.0	135.0
Subtotal	**80.0**	**240.0**	**365.0**
2.2 Fund for financing health-care institutions			
Introduction of a health contribution as of July 1, 2010	180.0	575.0	945.0
Additional funding for health-care institutions	– 180.0	– 575.0	– 995.0
Subtotal	—	—	**– 50.0**
Subtotal	**80.0**	**240.0**	**315.0**
3. LIBERATING THE AMBITIONS OF QUEBECERS			
3.1 Levers to improve our performance			
A competitive business environment			
$75-million investment fund to support the next generation of farmers[2]	– 0.2	– 0.4	– 0.6
3.2 Sustainable and responsible management of our resources			
Introduction of a water royalty	2.0	8.5	8.5
3.3 A dynamic culture			
Additional contribution for the Société de développement des entreprises culturelles[2]	– 0.5	– 0.5	– 0.5
Subtotal	**1.3**	**7.6**	**7.4**

Financial Impact of the measures in the 2010-2011 Budget (continued)
(millions of dollars)

	Financial impact for the government		
	2010-2011	2011-2012	2012-2013
4. OTHER MEASURES			
4.1 Société des établissements de plein air du Québec			
Investments to develop the territories and increase the accommodation capacity[2]	– 0.4	– 0.8	– 0.8
Subtotal	**– 0.4**	**– 0.8**	**– 0.8**
IMPACT OF MEASURES AFFECTING THE GOVERNMENT'S DEBT SERVICE AND THE RESULTS OF CONSOLIDATED ENTITIES	**91.9**	**257.8**	**332.6**
IMPACT OF REVENUE MEASURES	**343.9**	**876.8**	**1 889.6**
SUBTOTAL – MEASURES EXCLUDING PROGRAM SPENDING MEASURES	**435.8**	**1 134.6**	**2 222.2**
IMPACT OF MEASURES ON PROGRAM SPENDING	**– 195,0**	**– 219.3**	**– 272.1**
TOTAL IMPACT OF MEASURES IN THE 2010-2011 BUDGET	**240.8**	**915.3**	**1 950.1**

Note: A negative entry indicates a cost for the government.
1 Most of these measures are discussed in the economic and budgetary action plan.
2 Impact on the government's debt service.



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